

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

Self-Evaluation Plan

**Title II of the Americans with Disabilities Act
Programs, Services and Activities
(ADAAA)**

ISSUED AND APPROVED
by the Director
Department of Human Services

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July 31, 2012

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This Self-Evaluation Plan is a voluntary effort to comply with Title II of the Americans with Disabilities Act, As Amended (ADAAA) at the Hawai'i Department of Human Services (DHS). Purposes of the plan include, and are not limited to (1) identifying services, policies, and processes that need attention, (2) correcting any discrepancies found, (3) maintaining compliance with ADAAA relative to State-owned and leased facilities, and (4) assuring communication access via TDD communications, emergency warning provisions for disabled individuals, ADA notices, and dissemination of policies regarding access and non-discrimination.

This two-year plan (August 1, 2012-July 31, 2014) is general in nature to allow for flexibility in provision of services as well as to allow for changing needs and requirements. More specific details and objectives are provided on an annual basis to DHS Divisions, Administratively Attached Agencies and Commissions. In summary, some preliminary self-evaluation activities continue as follows:

- ✓ Involvement of persons with disabilities
- ✓ Update programs, services and activities
- ✓ Inform and train sub-recipients
- ✓ Modify POS and other contracts
- ✓ Review, and modify as needed, licensing and certification regulations
- ✓ Distribute annual Director's ICF on non-discrimination policies
- ✓ Refresh Task Force Representation
- ✓ Remind supervisors and staff of their role in providing reasonable accommodations and modifications on a timely basis
- ✓ Monitor capabilities of staff in using and offering assistive devices
- ✓ Monitor and inform about emergency evacuation procedures for persons with disabilities in State-owned and leased buildings
- ✓ Collect data as required to support integration of individuals with disabilities and/or language barriers into programs, activities and services
- ✓ Conduct site visits annually for facilities and language assessment purposes
- ✓ Submit Civil Rights Report to USDA, Office of Civil Rights, (OCR) as follow-up to SNAP management evaluation process.

DEPARTMENT OF HUMAN SERVICES

PROGRAMS SERVICES AND ACTIVITIES

Self-Evaluation Plan

August 1, 2012—July 31, 2014

Introduction

Purpose of Self-Evaluation

State and local governments are required to conduct self-evaluations of services, policies and practices, in accordance with Title II of the Americans with Disabilities Act, as Amended (ADAAA), 42 U.S.C., Section 12101. The purpose of self-evaluation is to identify services, policies and practices that do not comply with Title II requirements, and to correct any discrepancies to bring an entity into compliance.

A Civil Rights Compliance Review conducted by the Office of Civil Rights Food and Nutrition Service (FNS) of the U. S. Department of Agriculture (USDA) in 2010 focused on six key areas. A 2012 review by USDA was made in June of this year and that report is forthcoming. As a part of the SNAP Management Plan, the Department of Human Services, Civil Rights Compliance Staff, has been asked to provide a progress report to USDA, Office of Civil Rights in August of 2012. The focus of that report will include the following six areas:

1. Civil Rights Training and Unannounced Site Visits
2. Policies and Services for Limited English Proficient (LEP) Clients
3. Building and Program Accessibility for Persons with Disabilities
4. Public Notification on the Non-Discrimination Policy and the Procedures for Filing Discrimination Complaints.
5. Collection of Ethnic, Racial and Gender Data on Applicants and Recipients of the Supplemental Nutrition Assistance Program (SNAP)
6. Collection of Data on the Limited English Proficient Populations in the Hawai'i service areas.

Non-Discrimination Statement

It is the policy of the State of Hawai'i that no qualified individual with a disability is excluded from participation in, denied the benefit of, or is otherwise subjected to discrimination by any program, service or activity of the State on the basis of disability. This is also supported by the Department of Human Services (DHS) Policy and Procedures 4.10.3 dated July 9, 2009 (Appendix A) and 4.10.4 dated February 17, 2009 (Appendix B).

Joint non-discrimination statements appear on DHS websites and are available in ten languages. Additionally, USDA's non-discrimination statement appears on the DHS website in the Civil Rights Corner <http://www.hawaii.gov.dhs> in three languages. Public notices are posted in waiting rooms, such as the USDA's, 475B notice.

In keeping with the above policies and statements, DHS is committed to providing an equal opportunity for all persons to participate in its services, programs and activities. This commitment is reflected in Director's Memorandum 12-01, dated January 5, 2012 (Appendix C), an internal communication informing staff of the department's responsibilities.

The DHS' non-discrimination statement, all related directives, memoranda, and public notices, apply to all Divisions, as well as its two administratively attached agencies and two commissions. The Hawai'i Public Housing Authority (HPHA), an administratively attached agency which has considerable autonomy, has taken additional measures to ensure that the public is informed of its commitment to non-discrimination specifically in public housing under the Fair Housing Act.

Although the DHS provides an equal opportunity to participate in its services, programs and activities, persons who believe they have been discriminated against may file a discrimination complaint in accordance with the Departmental Discrimination Complaint Policy and Procedures (4.10.1) dated July 18, 2011 and updated in 2012 (Appendix D).

Designation of ADA Coordinator

The DHS Civil Rights Compliance Staff is the designated ADA Coordinator for the department. Questions, complaints and/or concerns may be routed to:

DHS – Personnel Office
Civil Rights Compliance Staff
P. O. Box 339
Honolulu, Hawai'i 95809-0339

E-mail: gwatts@dhs.hawaii.gov
Fax: (808) 586-4990
Phone: (808) 586-4955 (V)
(808) 586-4950 (TDD)

Additionally, Hawai'i Public Housing Authority ADA Coordinator (Kiriko Oishi)
can be contacted at: E-mail: Kiriko U Oishi/DHS/StateHiUS

The Hawai'i Public Housing Authority	Phone: (808) 832-4680
1002 North School Street, Building J	Fax: (808) 832-3866
Honolulu, Hawai'i 96817	TDD: (808) 832-3817

Self-Evaluation Process within the Department

Key Activities

An ACCESS Task Force, composed of representatives from the various programs and staff offices, was organized to assist the ADA Coordinator in the self-evaluation process and other compliance activities. The following areas are represented on the ACCESS Task Force:

- Benefit, Employment and Support Services Division (BESSD)
- Civil Rights Compliance Staff (CRCS)
- Fiscal Management Office (FMO)
- Hawai'i Public Housing Authority (HPHA)*
- Management Services Office (MSO)
- Med-QUEST Division (MQD)
- Office of Information Technology (OIT)
- Social Services Division (SSD)
- Vocational Rehabilitation & Services for the Blind Division (VRSBD)

*In addition to being part of the DHS' ACCESS Task Force, the HPHA Representative coordinates the internal self-evaluation process, which includes obtaining feedback from staff involved in providing programs, services and activities to the public and who are responsible for HPHA facilities under the Fair Housing and Rehabilitation Acts.

The key activities of the DHS ACCESS Task Force relative to the self-evaluation process include, but are not limited to:

- Meeting six times per year to consider changes/improvements
- Orientation to Title II by Disabilities and Communication Access Board
- Procedures and Practices Review
- Dissemination of ADA Notice and Self-Evaluation Plan
- Orientation on Communication Access
- Plan of Action for Practices Relative to Access
- Providing Suggestions for Addressing Areas of Non-compliance
- Collecting and Analyzing Relevant Population and Finance Data

Involvement of People with Disabilities

Persons with disabilities are involved in the self-evaluation process at various levels. Within the Department, employees with disabilities are invited to participate in compliance activities. To obtain input from external organizations, this Self-Evaluation Plan will be made available to the following organizations that are responsible in some way for providing services to persons with disabilities.

- Disability and Communication Access Board, Hawaii Department of Health
- Ho'opono Services for the Blind Branch, VRSBD, DHS
- Aloha State Association of the Deaf, Honolulu, Hawai'i
- U. S. Department of Agriculture, Office of Civil Rights, Region IX

Programs and Services

The DHS offers a wide range of state and federally funded programs and services to the public through four divisions, two administratively attached agencies, and two commissions. Such programs and services include, but are not limited to welfare assistance (financial and SNAP benefits), employment and training, child care, medical assistance, child welfare services, adult and community care services, vocational rehabilitation, public housing, and youth services. A state-wide commission on the Status of Women and a Commission on Fatherhood are also under the DHS.

Description of Programs and Services

1. Benefit, Employment and Support Services Division (BESSD)

The mission of BESSD, is to help economically disadvantaged persons attain self-sufficiency. In an effort to achieve this BESSD administers Financial Assistance, Supplemental Nutrition Assistance Program (formerly the Food Stamps Program, and Employment and Training Services. The Division also provided Child Care Connection Reimbursement services for families in which the parent(s) is/are employed or in training. The Homeless Program, transferred to BESSD from HPHA in 2010, solves problems and provides assistance to homeless individuals in Hawai'i.

2. Med-QUEST Division (MQD)

The mission of Med-QUEST (MQD) is to provide the overall management of the plans, policies, regulations and procedures of the Division's medical assistance programs, public information, staff and clerical assistance and support services; to develop and maintain working relationships with health plans, providers, Federal and State authorities, community agencies, client advocacy groups and others. This Division is also responsible for providing home and community-based support services to disabled children and adults.

3. Social Services Division (SSD)

SSD administers the Child Welfare Services Branch, more commonly known as Child Protective Services or CPS and the Adult and Community Care Services Branch, more commonly known as Adult Protective Services or APS.

4. Vocational Rehabilitation and Services for the Blind Division (VRSBD)

VRSBD is divided into: (a) Vocational Rehabilitation, (b) Services for the Blind, and (c) Disability Determination programs.

- a. Vocational Rehabilitation – provides services to eligible individuals with disabilities to become productive members of Hawaii's workforce.
- b. Ho'opono – Services for the Blind—provides services to eligible blind, deaf/blind and visually-impaired individuals which include vocational rehabilitation, adjustment classes, public education and blindness prevention activities. Ho'opono also maintains a statewide blind registry.
- c. Disability Determination—determines disability for Social Security Disability Insurance and Supplemental Security Income benefits.

5. Hawai'i Housing Authority (HPHA), administratively attached to DHS

The HPHA administers federal and state public housing and rental subsidy programs and other miscellaneous rental programs. The primary service of these programs is providing safe, decent and affordable housing to low and very low income families.

6. Office of Youth Services (OYS), administratively attached to DHS

The OYS was established by legislature in 1989 and administratively placed within DHS. The OYS provides and coordinates a continuum of services and programs for youth-at-risk to prevent delinquency and reduce

the incidence of recidivism. The OYS also strives to provide a clear sense of responsibility and accountability for all youth services in Hawaii. Although a core responsibility of the OYS is to manage and operate the Hawai'i Youth Correctional Facility, the agency places great emphasis on providing and supporting "front end" prevention, diversions, and intervention services.

The OYS focuses on programs that address youths' needs from prevention to incarceration and aftercare. The OYS administers the following programs and service through Purchase of Service (POS) providers who are contracted by the OYS: Positive Youth Development, Non-School Hours Programs, Youth Gang Prevention and Intervention, Truancy Prevention, Outreach and Advocacy, Education/Vocation Services, Homeless Youth Services and Community-Based Residential Services.

The Hawai'i Youth Correctional Facility insures public safety by providing programs and services that work towards successful reintegration of incarcerated youths within a safe, secure and just environment, which promotes adolescent development.

7. Commission on the Status of Women (CWS)

This administratively attached commission is a two-person office providing services specific to the needs and status of women.

8. Commission on Fatherhood

The mission of the Hawaii State Commission on Fatherhood is to promote healthy family relationships between parents and children by emphasizing the important role fathers play in the lives of their children. The Commission serves in an advisory capacity to state agencies and makes recommendations on programs, services, contracts, policies, and laws relating to children and families.

Support Services

Five staff offices provide support services to the aforementioned divisions, administratively attached agencies and commissions: (1) Administrative Appeals Office, (2) Fiscal Management Office, (3) Office of Information Technology, (4) Management Services Office, and (5) Personnel Office. Of these, the Administrative Appeals Office, which conducts fair hearings for clients, and the Personnel Office, which provides employment services, maintain public contact on a regular basis.

Officials Responsible for Programs and Services

The following is a list of officials responsible for the planning, preparation, coordination and delivery of programs, services, and activities under their supervision.

DHS Director

Patricia McManaman

Deputy Director

Barbara A. Yamashita

Division Administrators

BESSD

Pankaj Bhanot

VRSD

Joe Cordova

MQD

Dr. Kenneth Fink

SSD

Barbara A. Yamashita, Acting

Agency Executive Directors

HPHA

Hakim Ouansafi

OYS

David Hipp

Commission Executive Directors

CSW

Catherine Betts

FATHERHOOD

Barbara A. Yamashita, Acting

Self-Evaluation Process for Programs and Services

Equal Opportunity to Participate and Benefit

The Americans with Disabilities Act, as amended, states that A public entity: (1) may not deny a qualified individual with a disability an opportunity to participate and benefit from any program; (2) may not afford an opportunity that is not equal to or not as effective as that provided others, and (3) may not impose eligibility criteria for participation in programs that screen out people with disabilities either directly or indirectly, unless such criteria are necessary for the provision of the program's activities or services.

As indicated previously in the Description of Programs and Services, DHS provides a wide range of programs, service, and activities to the public and is a public entity. Although said programs, services and activities are designed and administered to serve all individuals equally, there may be circumstances in which participation of a person with a disability may be excluded or restricted. However, DHS believes that these exclusions and/or restrictions are necessary either to the operations of a program, or to ensure the safety of program participants, and does not discriminate against persons with disabilities. The following identifies exclusions or restrictions to various programs, and provides an explanation as to why DHS believes they are necessary.

The Child Care Connection, Hawaii's licensing requirements for child care providers may restrict or exclude the participation of certain individuals with disabilities. The provision of child care, usually for children not yet school age, requires the provider to be able to meet all the health and safety needs of the children in their care. For example, a provider must be able to carry infants/toddlers and escort older children out of a home and/or facility without assistance. If persons with disabilities can demonstrate that they are able to meet all health and safety requirements, as well as other eligibility criteria, they will not be denied an opportunity to become licensed.

The MQD administers two major medical assistance programs: The Hawaii QUEST Program and the QUEST Expanded Access (QExA) program. The QExA program is designed to better integrate and deliver health care to individuals who are sixty-five years or older, blind, or certified as disabled by the Social Security Administration or by the State, who may have more complex needs or community-based services requiring a greater degree of coordination. Accordingly these individuals are directed to the QExA program and are ineligible to participate in the Hawaii QUEST program.

The SSD is sometimes presented with circumstances when participation of persons with disabilities may be excluded or restricted. For child welfare services, the choice of foster homes for children with disabilities may be restricted to those homes where the family is properly trained to care for these children. Additionally, foster home certification criteria may exclude certain prospective foster parents with disabilities, if they are unable to demonstrate how they would care for the needs of children. In both instances, the exclusions or restrictions are necessary for the health and safety of all involved parties.

A person with a disability may be excluded from participating in an adult day care program, if the nature of the disability is such that the person would be better served through another program. A skilled nursing or intermediate care facility, rather than an adult day care, for example, may be a better choice for a severely disabled individual. Again, this exclusion is necessary to the health and safety of the participants.

The VRSBD is unique in that all of its programs and services are designed to assist persons with disabilities. However, because participation is contingent upon the nature of a person's disability, there may be circumstances where an individual may be excluded or restricted from participation in any given program. For example, eligibility requirements set forth by the Rehabilitation Act and the Social Security Act, may exclude ineligible persons from participation in the Vocational Rehabilitation and the Disability Determination programs, respectively. The exclusion of such individuals is necessary to comply with federal requirements. To disregard these requirements may fundamentally alter the nature of the programs and result in fiscal sanctions or loss of federal funding.

In its public housing programs, HPHA provides accessible housing units to eligible tenants with disabilities (i.e., mobility impaired, and hearing and visually impaired). Hawai'i Administrative Rules Section 17-2028-40, "Occupancy of Accessible Units" outlines procedures for filling said units.

Services provided by the Hawai'i Youth Correctional Facility could identify circumstances when youth with disabilities may be restricted from participation in a "work line." For example, a youth who has a mobility impairment may be restricted or excluded from working on the HYCF's ranch. However, the youth may be assigned to other work activities, such as performing work in an office setting. The exclusion or restriction is necessary for health and safety reasons.

Reasonable Program Modifications

"Public entities are required to make reasonable modifications to policies or practices in order to avoid discrimination towards people with disabilities. A modification is not required, however, if it would fundamentally alter the nature of the program or activity."

The DHS recognizes that training is necessary for staff who have direct contact with the public. Therefore the DHS makes reasonable efforts to ensure that staff are properly trained in accepting and processing requests for reasonable accommodations and modifications.

Although most programs have informal processes for modifying their practices, a formal procedure consistently applied throughout the DHS is designed to address the needs of persons with disabilities. This assures that all staff are aware of the Department's obligation to provide modifications and how to respond to requests.

Responding to requests for modifications may differ by division on a case-by-case basis, however.

The VRSBD has an established practice for providing program modifications to clients with disabilities. Essentially the VRSBD notifies the public of the availability of program modifications upon request, through public meeting notices, appointment letters, and telephone contacts, and is otherwise open to provide modifications that would effectively meet the needs of an individual,

taking into consideration his/her preference. For Example, while most clients/applicants are responsible for completing applications and other forms in order to receive services, when a cognitively impaired client or applicant is unable to complete necessary paperwork, arrangements are made by VRSBD staff to ensure that proper assistance is provided.

The eligibility workers of the income maintenance and medical assistance programs administered by the BESSD and MQD, respectively, are advised, and are aware, that office eligibility interviews, which are normally required, may be waived for persons with disabilities. If participants are unable to come to the office, alternative methods of interviewing are practiced. For instance, telephone interviews, home visits, or interviews with an authorized representative are regularly conducted to ensure that persons with disabilities are provided and equal opportunity to participate in programs and services.

In public housing, the HPHA makes reasonable accommodations to enable persons with disabilities to have an equal housing opportunity. Similar to the BESSD and MQD, eligibility reviews that are normally conducted in person at various HPHA offices or housing units can be conducted by telephone, with an authorized representative, or at an off-site location that is convenient to both parties, including at the client's residence. In addition, modifications to a building or unit may be provided to allow better access to the facilities, such as adding a ramp or widening a doorway.

Understanding that very few youth with disabilities are committed to the HYCF, the OYS modifies work and recreational programs, when necessary to allow participation of such youth. For example, if youth with a mobility impairment were unable to participate in a recreational activity, the OYS would engage in finding alternative activities for that youth. Similarly, for work programs, modifications are made to allow participation by a youth with a disability in the most integrated setting possible.

A departmental "Equal Opportunity to Services" Notice informs participants that the DHS can make modifications to their program to accommodate individuals. It informs clientele that the DHS will provide sign or other language interpreters and information in alternate formats.

Surcharges and Additional Requirements

Public entities may not impose extra charges upon people with disabilities to cover the costs of effective communication, program modifications, or access features, and may not impose any additional requirements or burdens on people with disabilities that they do not require of all other participants in the program.

For all DHS programs, services and activities, there are no circumstances in which persons with disabilities would be asked to pay a fee or meet any other requirements not imposed on other program participants.

Integrated Settings and Separate Programs

Separate programs or activities are permitted only when necessary to ensure equal opportunity. When separate programs are provided, qualified people with disabilities still cannot be excluded from participating in regular programs.

It is departmental policy that participants of DHS programs, services and activities shall not be denied the opportunity to participate in a regular (integrated) program even though another separate program may exist and which may be more appropriate.

As mentioned previously, all VRSBD participants are people with disabilities. Separate programs, services and activities exist to fulfill the varied needs of such individuals. For example, certain disabilities may require special services, such as sign language interpreters, readers, Braille materials, etc., to ensure equal access to programs and services. In addition, the Randolph-Sheppard Act gives priority to persons who are blind to operate vending facilities on Federal property. Similarly, the Hawai'i Revised Statutes, Section 102-14, authorizes persons who are blind and visually impaired to operate vending facilities and machines in State or County public buildings.

While most youth attend school and participate in classroom activities, the HYCF occasionally provides tutoring for youth in their living quarters when it is determined that their disruptive behavior is detrimental to the rest of students in the classroom. If such youth can demonstrate that they can participate in school without being disruptive, they are allowed to return and engage in regular classroom activities (i.e., integrated setting).

Contracting with External Organizations

When a public entity contracts with other organizations to provide programs and services to the entity's constituents, the public entity retains responsibility for ensuring that the contractor provides the services and activities in a non-discriminatory manner consistent with the requirements of Title II and other Federal regulations.

An extensive number of contractors currently provide services on behalf of DHS and its attached agencies and, therefore, we have elected not to list them in this document. However, for specific information regarding contracts within the various programs, inquiries may be made with the DHS Civil Rights Compliance Office at the address and phone number listed above. All DHS non-bid contracts shall contain the following language:

“No person performing work under this Agreement, subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state or county law.”

Furthermore, standard language requiring contractors to comply with the law, shall read as follows:

“The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules and regulations, as the same may be amended from time to time, that in any way affect the Contractor’s performance of this Agreement.”

The OYS provides services exclusively through Purchase of Service (POS) contracts. Included in their contracts is a section entitled “General Conditions for Health and Human Services Contracts” (AG Form 103F, General Conditions) which includes the following language:

1.3 Compliance with Laws

1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices policies and procedures required by Federal, State, or County law, including, but not limited to the Americans with Disabilities Act 942 U.S.C. 12101, et seq.) and the Rehabilitation Act (29 U.S.C. 701, et seq.)

1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by an applicable Federal, State, or County law.

The HPHA contracts with private property management companies to operate many State and Federal public housing projects. To ensure that contractors are aware of their obligation under the law, HPHA provides training in Section 504 of the Rehabilitation Act.

BESSD’s Homeless Branch staff received ADA (Title II and III) training, from the State Commission on Persons with Disabilities to enable them to monitor their contracted service providers.

Although contractors are informed of their obligation to comply with all Federal, State and County laws, the DHS believes that compliance with the ADA should be discussed directly with the contracting agent/s to ensure understanding of their obligations. Furthermore, DHS shall ensure that staff who monitor the contracts for compliance have full knowledge of ADA requirements.

The DHS Fiscal Management Office shall periodically review DHS contracts to incorporate more specific language relative to compliance with the ADA and other civil rights laws, rules and regulations, including, but not limited to, inclusion of specific assurances appropriate to the respective funding entities.

Procurement Contracts

In selecting procurement contractors, a public entity may not discriminate on the basis of disability. There should be no circumstances in which consideration

related to disability would influence the choice of a procurement contractor. Program Contract Monitors must assure that this does not happen.

Communication Access

The State of Hawai'i shall ensure that all individuals with disabilities have communication access to programs, services and activities of the State, which are equally effective as that provided to individuals without disabilities. Departments and agencies of the State of Hawai'i shall provide specific communication access in the form of auxiliary aids or services upon the request of a qualified individual with a disability." It is also State policy that a request must be received five to seven days prior to the date of an event that an auxiliary aid or service is needed.

Auxiliary Aids and Services

In keeping with the aforementioned policy, the DHS provides the following auxiliary aids and services upon request by a qualified individual with a disability:

<u>Visual</u>	<u>Hearing and Speech</u>	<u>Cognitive</u>
Large Print	Sign Language Interpreters	Signage
Readers	TDD	Simplify Directions
Braille	Telephone Relay Service	Simplify Instructions
Audiocassette	Paper & Pen	
Magnifier		
Computer Diskette		

The following auxiliary aids and services are made available upon request.

<u>Hearing and Speech</u>	<u>Cognitive</u>
Assistive Listening Devices	Visual Displays
AM or FM System (ATRC)	ATRC Hawaii
http://atrc.org/home/index 1.htm	200 North Vineyard Boulevard, Suite 430
e-mail atrc-info@atrc.org	Honolulu, HI 96817
1-800-645-3007	

Several divisions have an informal procedure for responding to requests for auxiliary aids and services, which includes the consideration of an individual's preference, and assesses the availability of other equally effective means of communication. DHS' Policy 4.10.3 and 4 apply.

TDD Communications

In addition to relay services, TDD communication devices are available at:

<u>OAHU</u>	<u>HAWAII</u>	<u>MAUI</u>
10 VRSBD locations	1 VRSBD location	1 VRSBD location
6 BESSD locations	2 BESSD locations	2 BESSD location
2 MQD location	2 MQD locations	1 MQD location
1 HPHA location		
1 HYCF		
3 PERS locations		
	<u>KAUAI</u>	<u>MOLOKAI</u>
	1 VRSBD	1 VRSBD
	1 MQD	
	1 BESSD	

The SSD explored the feasibility of installing TDDs for their Child Protective Services (CPS) and Adult Protective Services (APS) Hotlines. However, because these Hotlines are equipped with answering machines which do not accept TDD calls, it was determined that TDD hook-up was not feasible. Staff have been instructed that Telecommunications Relay Service (TRS) shall be utilized as an alternate effective means of communication. Moreover, if there is a high volume of calls that the SSD receives through the TRS, the Division shall reassess the need for TDDs.

VRSBD has a Statewide Coordinator for the Deaf, (SCD) with a designated Video Phone, (VP) line to accommodate the deaf population. The VRSBD administrative office has a program specialist assigned to the VP and is fluent in ASL as well as knowledgeable in deaf culture, which is required for this position.

Video phones and relay service are most commonly used today by the deaf community, not TTY.

Website Accessibility

Efforts have begun to enhance website accessibility for readers. A primer on website accessibility, cosponsored by the Disability and Communication Access Board and the Assistive Technology Resource Center, offered information about (1) the need for accessibility, (2) standards related to accessibility, (3) practical approaches to accessibility and (4) specific tools and techniques.

Emergency Warning Systems

The Office of the Director and Support Services Offices located in a state office building on Oahu have emergency evacuation procedures that address the needs of persons with disabilities as do branch offices in DHS leased or state-owned buildings. The Fiscal Management Office is responsible for planning/coordinating with the Department of Education overall evacuation procedures during emergencies such as fire, for staff in the Liliuokalani Building.

The VRSBD, MQD, BESSD, SSD, OYS, and HYCF indicate that they have emergency evacuation procedures, which include safe egress for persons with disabilities. Said programs indicate the plans include a means to alert hard-of-hearing and deaf individuals of an activated alarm. While the HYCF has a strobe alarm in its newly built secured facility, the other divisions maintain that they have implemented a “buddy system” to assist hearing-impaired or deaf individuals.

In meeting with BESSD Oahu Branch (OB) and Neighbor Island Branch (NIB) and Section Administrators, the Administrators report with confidence that their offices and units have developed written emergency evacuation procedures for egress of disabled staff, clients, visitors and for staff to alert hearing-impaired and deaf individuals of an activated alarm and other needed assistance. The plans are now routinely posted in the offices. The Administrators will take necessary steps to ensure that the evacuation plan is posted.

Most HPHA administrative offices have emergency evacuation plans and procedures but not all offices specifically address the needs of persons with disabilities. In its public housing projects, some dwelling units are equipped with smoke detectors with strobe lights for the hearing-impaired. In addition, at some of its high-rises for the elderly, a list of frail and disabled tenants (those with known ambulatory, hearing and vision impairments) is compiled and provided to the Honolulu Fire Department.

Assistance will be provided by appropriate personnel to ensure that all DHS program offices have emergency evacuation procedures, which include plans to ensure for the safety of persons with disabilities.

Access Information

Access information is primarily provided over the telephone. Information about access is also communicated by (1) ADA Notice 2011 posted in all DHS units in public areas (Appendix E), (2) public hearing notices, (3) Internal Communication Form (ICF) and policy and procedure dissemination, and (4) websites.

The self-evaluation process will determine whether all staff are knowledgeable about providing access information. As such, training sessions regarding this matter, shall be provided in order to assure equal opportunity to services by persons with disabilities. Training can be face-to-face, video conferencing and/or

computer based (CBT) <http://www.hawaii.gov/dhs> in the Civil Rights Corner for example. In 2012 the CRCS provided face-to-face training to all DHS supervisors and to registered clerical staff in Administrative Procedures sessions. A copy of that training is also available on line (Appendix F).

Facilities Assessment

Summary of Inaccessible Features

The HPHA conducted a survey and hired a consultant to update the needs of its facilities to identify structural barriers that may impede physical access. In addition, for HPHA-owned Federal facilities, inaccessible elements were addressed through its Capital Fund Program.

As part of the self-evaluation process, an assessment of DHS offices located in both state-owned and leased facilities will be conducted annually to determine the level of physical access to persons with disabilities.

Inaccessible elements of state buildings will be addressed administratively and/or through DAGS. For offices in leased facilities, inaccessible elements may either be addressed by the program, through reasonable modifications to policies and practices, and other program access options, or by removing structural barriers which impede access. Where offices have agreed to modify their policies and practices to accommodate persons with disabilities, no renovations or improvements will be recommended. All renovations and improvements must comply with 2010 ADA Standards.

Unannounced site visits to assist in identifying needs are conducted annually, have been completed for 2012 (Appendix G), and will be ongoing through 2014.

Program Access Options

Program access options for DHS facilities are listed in Appendix H.

Additionally, the HPHA in 2010 set out to make reasonable modifications to its policies and practices and take whatever steps necessary to ensure that identified barriers were addressed programmatically. Program access options for HPHS included, but were not limited to: (1) performing outreach services, (2) contacting clients by telephone, (3) meeting with participants at an alternate accessible site, (4) allowing an authorized representative to serve on behalf of a client, (5) providing materials in alternate format, and (6) providing auxiliary aids and services.

DHS Divisions are addressing and/or will be addressing program options for areas identified as needing attention in unannounced site visits in 2012.

Summary

In summary, this two-year plan, highlights DHS' purpose for self-evaluation as required by Section 12101 of the Americans with Disabilities Act, designates an ADA Coordinator, sites key activities and names officials responsible. Programs and processes for self-evaluation are described, communication access and web accessibility are highlighted as is information about emergency warning systems and facilities assessment through unannounced site visits.


Program access options, a list of 2012 site visits, ADA notice, relevant internal communication, and a copy of ADAAA related training are included as appendices.

Some preliminary self-evaluation activities continue as follows:

- ✓ Involvement of persons with disabilities
- ✓ Update programs, services and activities
- ✓ Inform and train sub-recipients
- ✓ Modify POS and other contracts
- ✓ Review, and modify as needed, licensing and certification regulations
- ✓ Distribute annual Director's ICF on non-discrimination policies
- ✓ Refresh Task Force Representation
- ✓ Remind supervisors and staff of their role in providing reasonable accommodations and modifications on a timely basis
- ✓ Monitor capabilities of staff in using and offering assistive devices
- ✓ Monitor and inform about emergency evacuation procedures for persons with disabilities in State-owned and leased buildings
- ✓ Collect data as required to support integration of individuals with disabilities and/or language barriers into programs, activities and services
- ✓ Conduct site visits annually for facilities and language assessment purposes
- ✓ Submit Civil Rights Report to USDA as follow-up to SNAP management evaluation process

APPENDICES

A	DHS Policy and Procedures 4.10.3 dated July 9, 2009
B	DHS Policy and Procedures 4.10.4 dated February 17, 2009
C	Director's ICF 12-01 dated January 5, 2012
D	Departmental Discrimination Complaint Policy and Procedures, 4.10.1 dated July 18, 2011 with Attached Forms updated in 2012
E	ADA Notice
F	ADAAA and Non-discrimination Training
G	List of 2012 Unannounced Site Visits
H	Program access options for DHS facilities

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INTRODUCTION

The Department of Human Services (DHS) will provide equal opportunity to participate in its programs, services and activities.

This policy has legal authority within the parameters of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act of 1990 as amended, as well as the Hawaii Revised Statutes, including and not limited to Chapter 371, Part II, 31 to 37 and Chapter 378, as amended.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services to any particular person or groups of persons seeking services at the DHS.

1.0 PURPOSE

The primary purpose of this policy is to assure that opportunities to participate in DHS services are free from discriminatory practices.

2.0 REFERENCES, ACRONYMS AND DEFINITIONS SEE APPENDIX A

3.0 POLICY

It is the policy of the Department of Human Services to provide all persons with an equal opportunity to participate in, and benefit from all departmental programs, services and activities. Goals will be set and updated as needed.

4.0 SCOPE

This policy applies to all DHS divisions and their branches, sections and units as well as agencies and commissions administratively attached to DHS, individuals, and organizations that receive State and Federal funds through contracts or other arrangements with the DHS.

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5.0 RESPONSIBILITIES

Director Ensure that all programs, services and activities administered by the Department are provided in an environment free of discriminatory practices. The Director may delegate any portion to a deputy director, staff officer and/or division administrator.

Civil Rights Compliance Staff (CRCS) (a) Develops, coordinates, monitors and maintains all departmental programs related to civil rights in accordance with appropriate federal and state laws and regulations, (b) develops and implements policies and procedures relative to providing an opportunity to participate in programs, services and activities, (c) provides technical assistance and staff support to the Director, Deputy Director, Personnel Officer, and supervisory personnel in matters concerning non-discrimination in the provision of services. (d) investigates complaints of discrimination in accordance with section 4.10.1 of this Policy and Procedure Manual, (e) establishes and maintains a volunteer interpreter list and disseminates to division and administratively attached agency or commission. The list shall be updated at least on a semi-annual basis, (f) works in consonance with personnel in staff offices and divisions on matters relating to equal opportunity in the provision of services, (g) negotiates settlements and submits recommendations to the Director for review.

Division Administrators/Executive Directors/Staff Officers (a) Ensures programs are provided in a non-discriminatory manner to all eligible persons, (b) coordinates the Department's compliance programs, services and activities as they relate to their respective organizations, (c) provides direct assistance to the Civil Rights Compliance Staff in civil rights-related matters as deemed necessary, (d) disseminates list of volunteer employee interpreters to their respective organizational units, (e) notifies prospective and actual applicants and clients of their right to interpreter and other services at no cost to them assuring timely and meaningful access.

Program Administrators (includes Division, Branch, Section and Unit Supervisors) Identifies language and access needs of their clientele, and persons in the community likely to be affected by their program. Further, they are responsible for planning and administering the program, service or activity in a manner that does not openly result in, or have the effect of treating a person or a group of persons unfairly.

Supervisors (a) must ensure the consistent application of the Department's non-discrimination policy and method of administration in the provision of programs, services and/or activities to the public, and (b) inform each employee of the procedures to provide meaningful access to all individuals, including LEP persons and people with disabilities.

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Employees (a) Implement and consistently apply the Department's non-discrimination policy and method of administration in the performance of their jobs in a timely manner (b) inform clients and applicants of the availability of language assistance, auxiliary aids and services, (c) arrange for a sign or other language interpreter on behalf of the requesting individual, (d) explain discrimination complaint process, and (e) explain to clients their rights.

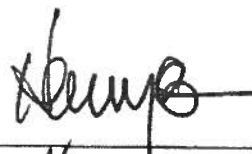
Contractors or Sub-recipients (a) This policy extends beyond those programs, services and activities administered directly by the Department and applies to all contractors, service providers and other sub-recipients that receive Federal and State funds that provide services on behalf of DHS. (b) DHS or its organizational divisions, and administratively attached agencies and commissions will not approve any application for or make any expenditures of Federal or State funds for the establishment, conduct or continuation of any program or activity, until the service provider furnishes an assurance in writing to comply with all of the requirements imposed by, or pursuant to, the applicable Federal and State laws and regulations. (c) Each program will be responsible for securing that written assurance of compliance and for monitoring the service delivery practices of the service provider to ensure compliance with the applicable laws, regulations and this policy.

6.0 IMPLEMENTATION

With the approval of this Policy, by the Director, DHS' Opportunity to Participate in Programs, Services and Activities will be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

This part shall superseded any prior directive concerning equal opportunity to participate in programs, services and activities. Authorized modifications of content will not affect the life of these policies and procedures, unless so specified by the Director.

APPROVED: _____


Director

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7.0 PROCEDURES

7.1 Dissemination of Information

- a. Programs shall inform clients, applicants, potential applicants, and related program participants, that the Department's programs, services and activities are provided in a manner that is free of discriminatory practices. Additionally, such individuals shall be informed of their right to file a discrimination complaint with the Department or appropriate enforcement agency.
- b. All such information and assurance of compliance statements, shall be included as a provision in all contracts, grant assignments, licensing agreements, and other similar documents that are used in the administration of programs, services and activities of the Department of Human Services.

7.2 Maintenance of Records and Reports

- a. The Department will maintain such records and submit such reports as may be required by Federal or State agencies to assure compliance with regulations.
- b. The Department will require such program, agency or facility receiving Federal or State financial assistance directly or through contractual, licensing or other arrangements with the Department, to maintain and submit those records and reports deemed necessary to determine compliance.

7.3 Comparable Level of Service

- a. The Department shall take the necessary steps to ensure that resources are available to provide all persons with an equal opportunity to participate in the programs, services and activities administered by the Department. The level of service shall be equally effective as that provided to the general public. Accordingly, each program, service or activity shall be responsible to ensure that:
 1. no person is denied program services or benefits because of the person's inability to communicate in the English language; or due to a disability; and
 2. each unit employee shall arrange for a sign or language interpreter for anyone requiring such accommodation in order to access benefits or services.
- b. To promote a comparable level of service to that provided the general public, programs or activities that have substantial participation of LEP persons or persons with disabilities, shall take the necessary steps to furnish vital program information and notices in the appropriate languages, or in alternate format.

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- c. To ensure that all persons are provided an opportunity to participate in, and benefit from, our programs, services and activities, we must eliminate barriers that may preclude meaningful access for otherwise qualified individuals who might have special needs. In particular persons with disabilities and those with limited English skills might require assistance to access and participate in our programs, services and activities.

For further information on DHS' Access Policy which covers language, facilities and employment to support human services, see Access Policy 4.10.4 (2009).

For protocol on providing access for Persons with Disabilities under ADA, as amended, see Appendix B.

For protocol on providing access for persons with special communication needs, see Appendix C.

For protocol on providing access for Limited English Proficient (LEP) persons, see Appendix D.

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2.0 REFERENCES, ACRONYMS, AND DEFINITIONS

2.1 REFERENCES

Title VI of the Civil Rights Act of 1964, as amended
 Title VIII of the Civil Rights Act of 1968, as amended
 Food Stamp Act
 Rehabilitation Act of 1973, Sections 503 and 504
 Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 402
 Civil Rights Restoration Act of 1988
 Fair Housing Act of 1968, as amended
 Executive Order 11246, 30 Fed. Reg. 12319, as amended
 Executive Order 13166, 65 Fed. Reg. 50121, as amended
 Americans With Disabilities Act of 1990, (ADA), as amended
 U. S. Department of Health and Human Services, Office for Civil Rights, Policy
 Guidance: Prohibition Against National Origin Discrimination as it Affects
 Persons with Limited English Proficiency
 Hawaii Administrative Rules, Title 11, Chapter 218, Utilization of Sign
 Language/English and Oral Interpreter Services
 Hawaii Revised Statutes, Chapter 489; 368, 1.5
 Hawaii Revised Statutes, Chapter 371, Part II (31-37), and 378, Part I, as amended
 Department of Human Services Administrative Directives Update

2.2 ACRONYMS

ADA	AMERICANS WITH DISABILITIES ACT, AS AMENDED
ASL	AMERICAN SIGN LANGUAGE
CRCS	CIVIL RIGHTS COMPLIANCE STAFF (DHS PERSONNEL)
DAGS	DEPARTMENT OF GENERAL ACCOUNTING SERVICES
DCAB	DISABILITY AND COMMUNICATIONS ACCESS BOARD
DHS	DEPARTMENT OF HUMAN SERVICES
DIR	DIRECTOR, DEPARTMENT OF HUMAN SERVICES
DDIR	DEPUTY DIRECTOR, DEPARTMENT OF HUMAN SERVICES
LEP	LIMITED ENGLISH PROFICIENCY
OCR	OFFICE OF CIVIL RIGHTS
OLA	OFFICE OF LANGUAGE ACCESS (STATE OF HAWAII)
USHHS	UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
TDD	TELEPHONE DEVICES FOR THE DEAF
TDY	TELETYPEWRITERS
TT	TEXT TELEPHONES

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2.3 DEFINITIONS

Auxiliary aids and services: Equipment, materials and services that are used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities

Bilingual/Multilingual: Any individual who has demonstrated proficiency in both spoken English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication

Department or DHS: the Hawaii Department of Human Services, including its administratively attached agencies and commissions

Director: Director of the Hawaii Department of Human Services

Discrimination: Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws)

Facility: Any building or space where DHS programs, services, activities, employment or other functions occur

Frequently-Encountered Language: Language spoken by a significant number or percentage of the population eligible to be served, employed by or directly affected by DHS programs, services, activities and functions

Interpreter: A bilingual or multilingual individual who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English shall not be considered an interpreter. Generally, an interpreter is trained in interpretation and has proficient knowledge and skills in English and at least one other language and who uses those skills and training to make possible communication in one language by orally converting what is said to another language while retaining the same meaning.

Interpretation: Interpretation means the oral rendition of a spoken message from one language to another, preserving the intent and meaning of the original message

Limited English Proficient (LEP) Person: Any individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with DHS and have meaningful access to and an equal opportunity to participate fully in

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services, activities, programs, employment, or other benefits administered by the Department of Human Services

Person with a Disability: An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such and impairment


Service Provider: Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services

Sight Translation: Occurs when an interpreter reads written text and orally converts what is written to another language while retaining the same meaning.

Sub-Recipient: Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis (OMB Circular A-133-- Guidance on distinguishing between a sub-recipient and a vendor is provided in .210)

Translate: Translate means to convert written materials from one language into an equivalent written document in another language while maintaining the same coherence and meaning. Translation means an activity comprising the interpretation of the meaning of a document in one language and the production, in another language, of a new, equivalent document.

Vital Documents: include, and are not limited to: applications, consent forms, complaint forms, letters or notices pertaining to eligibility for benefits, letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response, written tests that test competency for a particular license, job or skill, documents that must be provided by law; and notices regarding the availability of free language assistance services.

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In keeping with the ADA, as amended, as well as a policy of the State of Hawaii that “no qualified individual with a disability is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination by any program, service or activity of the State of Hawaii on the basis of disability,” the Department of Human Services (DHS) will take the following actions:

1. Make reasonable modifications to DHS policies, procedures and practices, to ensure that persons with disabilities are not excluded from participation;
2. Provide auxiliary aids and services to ensure effective communication access for persons with disabilities, taking into consideration the requesting individual's preference; and
3. Ensure our offices that serve the public on a regular basis are accessible. If this is not readily achievable, services shall be programmatically accessible to qualified individuals.

Program

Programs are required to operate in such a manner that, when viewed in their entirety, are readily accessible to persons with disabilities. This means making reasonable modifications to program procedures, practices and processes to ensure that persons with disabilities are afforded an opportunity to participate in programs, services and activities of the Department.

Modifications include, and are not limited to:

1. Making home visits in lieu of office visits;
2. Conducting interviews over the telephone rather than in person; and
3. Providing services in an alternate accessible site without compromising confidentiality.

Physical

DHS will ensure that all programs, services and activities, when viewed in their entirety, be accessible to persons with physical and mental disabilities. This includes ensuring all DHS offices that serve the public are structurally accessible to persons with disabilities, in accordance with administrative directives related to facility access.

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1. State Owned Buildings


Programs shall work with DAGS, Planning Branch, and the Fiscal Management Office to ensure that existing state buildings are upgraded, when necessary, to meet access requirements. If this is not readily achievable, programs shall assure that access is achieved programmatically.

2. Leased Facilities

DHS will lease office space in accordance with Comptroller's Memoranda, Policy Guidance and Procedures for Leasing Office Space to Ensure Program Access for Persons with Disabilities.

DHS will ensure that organizational units in leased facilities are accessible to persons with disabilities. The programs shall work with the DAGS, Leasing Branch, when negotiating a new lease or lease renewal.

Administrators and Unit Supervisors or a designee shall accompany DAGS in a walk-thru of a prospective leased facility. The programs shall utilize the survey tool provided by DAGS when performing site assessments to determine whether or not the facility meets access requirements.

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	OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES Protocol for Providing Access for Persons with Special Communication Needs		Issue/Revision Date JUL - 9 2009	

The Department of Human Services (DHS) will ensure that persons with communication disabilities have a means of communication that is as effective as that provided to persons without communication disabilities. Programs shall provide an effective means of communication with people who have hearing, visual, speech or cognitive disabilities by providing auxiliary aids and services. Programs shall take into consideration the preferences of the requesting individual when providing an auxiliary aid or service.

Programs shall not provide an auxiliary aid or service if it will fundamentally alter the program or create an undue financial or administrative burden. Under these circumstances, the program shall consult with the Civil Rights Compliance Staff (CRCS) to ensure compliance with the applicable laws, rules, regulations and this protocol.

1. Hearing Impairments—Examples of auxiliary aids and services for people who are hearing impaired include, and are not limited to:

- Qualified interpreters
 - Note takers or computer assisted note takers
 - Written material
 - Real-time transcription or video text displays
 - Amplified and hearing aid compatible telephones
 - Assistive listening devices
 - Open and closed captioning
 - Caption decoders
 - TTYs (teletypewriters), TDDs (telephone devices for the deaf) or TTs (text telephones)
- (a) Obtaining Qualified Sign Language Interpreters--DHS staff will obtain a qualified sign language interpreter in accordance with Hawaii Administrative Rules Title 11, Chapter 218.
 - (b) Interpreters will be nationally-certified or hold a local certification awarded by a local screening agency. Appropriate certification level of the interpreter will depend on the nature of the meeting or appointment.
 - (c) When it is determined that a sign language interpreter is necessary for effective communication, the requesting employee will contact an interpreter referral service agency with the following information:
 - (1) requesting employee's full name and phone number, (2) location and purpose of meeting, (3) date of appointment, (4) start and stop time, (5) interpreter preference of hearing impaired individual, and

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(6) onsite contact person and telephone number (if different from requesting employee).

2. Visual Impairments

Examples of auxiliary aids and services for people who have visual disabilities include, and are not limited to:

- o Printed information on audio cassette or computer disk, in Braille, or large print, or read by skilled readers:
- o Verbal description of action and visual information to enhance the accessibility of performances and presentations; and
- o A staff member serving as a guide to enable a person who has limited vision to locate items or to find his or her way along an unfamiliar route.

3. Cognitive Impairments


Examples of auxiliary aids and services for persons with cognitive impairments, include and are not limited to:

- o Readers
- o Communication assistants
- o Rewording of information to use clear and concise language
- o Pictograms
- o Graphic presentation of information

4. Speech Impairments

Examples of auxiliary aids or services to persons with speech impairments include, and are not limited to:

- o Written material
- o More active and acute listening on part of listener
- o Communication assistants who are familiar with person's speech
- o Computer, Typewriter, TTYs or TDDs

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	OPPORTUNITY TO PARTICIPATE IN PROGRAMS, SERVICES AND ACTIVITIES Protocol for Providing Access for Limited English Proficient (LEP) Persons		Issue/Revision Date JUL - 9 2009	

The Department of Human Services (DHS) will ensure that Limited English Proficient (LEP) persons will not be excluded from participation in, denied the benefits of, or subjected to discriminatory practices in the provisions of its programs and services because of their inability to communicate in English. The Department, its Divisions, Administratively Attached Agencies and Commissions will take the following steps to assure that all eligible persons with limited English Proficiency have meaningful access to the services we provide.

- Ensure that LEP persons are informed of their right to be provided with interpreter and/or translation services free of charge to them. Please do not encourage or request that such individuals bring a friend or relative to interpret for them.
- Translate vital documents such as applications, consent forms and notices regarding denial or changes in benefits into other languages based on guidelines from program funding agencies and State laws. (Also see presentation on Best Practices in Written Translations at <http://www.hawaii.gov/dhs> in the Civil Rights Corner)
- Use Four-Factor Analysis defined in DHS' LEP Plan/Consult with Program Office Administrators to consider individual requests for translations to determine when to translate written materials. The four factors include: number of language encounters, frequency of language encounters, nature of the document, importance of the service/document and cost to translate the document. Please note that cost is only one of the four factors to be considered in determining when documents must be translated.
- Contact existing agencies, Tele-Interpreter, internal list of volunteer interpreters (who may be utilized in person or by phone); contact interpreters off the list of Court Interpreters, known qualified individuals and organizations, profit and/or non-profit, such as educational institutions, Pacific Gateway, religious organizations, community entities, when interpreter and/or translation services are needed. Utilize qualified multilingual staff who have volunteered to serve as interpreters and/or translators.
- Utilize technology effectively to promote communication and understanding about programs, processes, and rights.

To the extent possible, DHS employees and contractors should adhere to the following guidelines when requesting oral interpretation services:

1. Explore all effective and timely options;
2. Seek volunteers who are familiar with your program;

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3. Consider the feasibility of having the volunteer perform interpretation electronically and/or through video conferencing or by phone, as appropriate;
4. When your interpreter needs require face-to-face contact, seek volunteer employees located at the same worksite or general geographical area;
5. While the Office of Language Access (OLA) provides monitoring and interpreter training services, they are not responsible for providing interpreters and DHS employees should not refer clients to OLA in search of an interpreter. DHS and its contractors and sub-recipients must provide an interpreter free of charge to the LEP individual in provision of services, programs and activities.
6. Refer to guidelines concerning "How to work with an Interpreter," located at <http://www.hawaii.gov/dhs> in the Civil Rights Corner.

Oral Interpreter Requests


1. When a request for an oral language interpreter is made, the DHS employee shall determine whether bilingual staff in the office, or a nearby office, or other DHS office is available who speaks the language being requested.
2. DHS employees shall contact a court interpreter, Tele-interpreter or other interpreter services, such as Pacific Gateway, to provide interpreter services for DHS when volunteer interpreters are not available.
3. The DHS employee shall contact one or more of the above before the scheduled appointment with the requesting LEP person providing the following information: (a) requesting employee's full name and telephone number, (b) department, section, unit and address, (c) language needed, (d) client's full name, (e) date and time of appointment, and (f) purchase order or pCard number.
4. The DHS employee may ask the interpreter to call the LEP individual to inform him/her of the scheduled appointment.
5. Upon completion of the appointment, an encounter form is completed and signed by the DHS employee and the interpreter. Information on the form (DHS D-40) includes the end time of the appointment, the nature of the encounter, and the interpreter's full name and signature.

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6. The DHS employee may cancel the request for interpreter, however, if the interpreter is not contacted within 24 hours of the appointment time, DHS will likely be charged a minimum of one hour even though no services are provided.
7. The DHS requesting employee shall determine first whether interpreting may be performed via telephone to minimize the time the volunteer spends interpreting and away from his/her regular duties.
8. Telephone interpreter services are available for brief encounters (one-half hour, or less) as are video phones and voice recognition packages. Programs shall have processes for utilizing such services based on contracts, needs and resources.
9. Interpreters should be familiar with the program for which interpretation is needed, be given a copy of the Interpreter Code of Ethics, and sign a self-attestation form concerning their interpreter abilities. Copies are available at <http://www.hawaii.gov/dhs> in the Civil Rights Corner.

Written Translation Requests

Division Administrators, Executive Directors and Staff Officers shall assess the language needs of their respective program/project areas to determine what documents will be translated and into what languages in order to ensure meaningful access to people eligible to be served or likely to be affected by the program/project. This determination shall be based on guidelines set forth by the Hawaii Department of Labor, Office of Language Access, and the U. S. Department of Health and Human Services, Office for Civil Rights, Policy Guidance: Title VI Prohibition Against National Origin Discrimination as it Affects Persons with Limited English Proficiency.

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			Issue/Revision Date FEB 17 2009	

INTRODUCTION

The Department of Human Services (DHS) will strive to provide meaningful access to its programs, services, activities, facilities, and employment.

This policy has legal authority pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Titles I and II of the Americans With Disabilities Act of 1990, among others, as well as the Hawaii Revised Statutes, including and not limited to Chapters 371 and 378 as amended.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services, facilities access, or employment, to any particular person or groups of persons.

1.0 PURPOSE/S

The primary purpose of this policy is to reduce barriers and improve availability of and access to human services at the DHS by providing and maintaining reasonable and meaningful language, facilities and employment access to support human services.

2.0 REFERENCES, ACRONYMS AND DEFINITIONS SEE APPENDIX A

3.0 POLICY

It is the policy of the Department of Human Services (DHS) that all individuals shall be provided equal access to programs, services, activities, facilities and employment in all DHS functions. The goal of this policy is to remove and prevent any barriers to equal access.

4.0 SCOPE

This policy applies to all DHS organizational divisions and their units, agencies, commissions, individuals, and organizations that receive State and/or Federal funds through contracts or other arrangements with the DHS.

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5.0 RESPONSIBILITIES

Administrative Appeals Office is responsible for developing, implementing and evaluating Fair Hearing procedures and processes in provision of DHS services.

Civil Rights Compliance Staff/Personnel Office is responsible for developing and coordinating DHS' Language Access, Self-Evaluation, and Affirmative Action Compliance Plans. Also serves as liaison between Federal and State agencies and other stakeholders, such as advocacy groups and/or potential applicants; provides technical assistance to divisions, administratively attached agencies, and commissions; responds to inquiries from the Equal Employment Opportunity Commission, Hawaii Civil Rights Commission, U. S. Department of Housing and Urban Development and others, as well as performing other duties relative to Civil Rights compliance in programs, services, activities, facilities and employment, such as reporting, training and development. The Civil Rights Staff shares responsibility with divisions, agencies and commissions for DHS policies and procedures, compliance reporting, training, and the development of tools, notices/documents, processes and training modules relating to civil rights compliance. This office may share with divisions the responsibility for developing private/public partnerships to facilitate access.

Director The DHS Director is responsible for leading and monitoring the implementation and prevention of barriers to language, facilities and employment access at the Department of Human Services. The Director may delegate any portion to a deputy director, staff officers and/or division administrators.

Employees All DHS employees are responsible for complying with Federal and State laws, relating to civil rights, including and not limited to treating all individuals equally and courteously, informing persons of their right to equal access to programs, facilities and employment as well as their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated and/or an internal complaint when they feel they have been treated unfairly. Employees are responsible for notifying clients of their right to a fair hearing when there has been an adverse action such as a denial of benefits.

DHS Organizational Division and Unit Administrators and Officers are responsible for determining the needs of the population they serve, considering language, culture, and physical accessibility to facilities and employment that are consistent with those needs in compliance with Federal and State Laws. Other responsibilities include, but are not limited to: (1) distributing to appropriate staff members policies and procedures regarding access, a desk guide, required notices, and a list of available language and other assistance services, (2) consulting with the Civil Rights Compliance Staff on the development and implementation of staff training, (3) collecting and analyzing internal and external data, and (4) notifying and monitoring sub-recipients of compliance with Federal and State Laws and assurances (5) performing other duties as identified in DHS policies and procedures,

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including seeking external funding and partnerships as needed and appropriate in coordination with the Civil Rights Compliance Staff.

Sub-Recipients are responsible for complying with civil rights, and other Federal and State laws and assurances, including and not limited to, informing clients and potential clients of their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated or an interpreter has not been provided.

Contractors and sub-contractors are responsible for providing reasonable, meaningful access to their services and for posting required notices.

Supervisors are responsible for ensuring that their staff are aware of their responsibility to treat all clients and applicants equally and fairly, and to provide assistance to persons with special needs. Supervisors shall also ensure that clients, applicants, recipients, and employees are informed of their right to nondiscriminatory services and employment, reasonable accommodations as justified, and right to file a discrimination complaint and/or request a fair hearing. Supervisors are responsible for assuring that their staff are adequately trained, and for monitoring, posting, and updating of required notices.

6.0 IMPLEMENTATION

With the approval of this Access Policy by the Director, DHS' policy shall be implemented and will remain in effect until such time it is cancelled or superseded by order of the Director.

APPROVED: 
Lillian B. Koller, Director

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7.0 PROCEDURES

7.1 LANGUAGE ACCESS

The Department of Human Services (DHS) recognizes that Limited English Proficient (LEP) individuals need language assistance services to access and fully participate in programs and services as well as employment and other activities. DHS is, therefore, committed to providing competent language assistance at no cost and in a timely manner to LEP individuals. This includes ensuring effective communication between DHS staff members and/or sub-recipients and LEP individuals. Procedures and processes will be developed by the Department. Divisions, sections, units and administratively attached agencies, commissions, and sub-recipients will assist the Civil Rights Compliance Staff by taking the following steps:

- (1) Assessing and determining linguistic needs of population served
- (2) Providing timely and competent language assistance
 - a. Providing language assistance Resources, such as "I Speak" cards
 - b. Determining language need of each LEP Individual
 - c. Notifying LEP individuals of availability of free language assistance
 - d. Requesting an American Sign Language (ASL) interpreter
 - e. Requesting oral language interpreters
 - f. Translating written documents as required by law or DHS contract
- (3) Distributing and complying with interpreter standards set by funding agencies
- (4) Using family, friends, and other volunteer interpreters when qualified and appropriate only

The Department has taken or will take the following steps:

- (1) Develop a reporting system designed to obtain key information about the LEP population who use DHS services or have the potential for doing so
- (2) Compile comprehensive listing of bilingual/multilingual DHS employees
- (3) Send notices of available interpretation/translation services to LEP individuals
- (4) Provide interpretation/translation services for qualified LEP individuals
- (5) Designate a LEP Coordinator, Access Task Force to include representatives from divisions, administratively attached agencies and commissions
- (6) Designate a representative from the Attorney General's office as needed
- (7) Train DHS staff in Language Access
- (8) Seek stakeholders' input in review and revision of its LEP Plan

Procedures and processes are delineated in DHS' LEP Plan, and include input from DHS' Access Task Force which is composed of a representative from all divisions, and administratively attached agencies or commissions, and the LEP Coordinator.

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7.2 FACILITIES ACCESS

Non-discrimination

No qualified individual with a disability is excluded from participation, denied the benefit of, or is otherwise subjected to discrimination by any program, service or activity (including and not limited to employment services) of the DHS on the basis of a disability.

Self-Evaluation

State and local governments are required to conduct self-evaluations of services, policies and practices in accordance with Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. Section 12101. The purpose of self-evaluation is to determine whether DHS services, policies and practices are in compliance with Title II.

DHS' Self-Evaluation Plan (2008-2009) delineates procedures and processes for facilities assessment, including some program access options involving people with disabilities, making reasonable program modifications, and contracting with external organizations, as well as communication access, including Telecommunication Devices for the Deaf (TDD), Communications and Emergency Warning Systems as related to provisions for persons with disabilities.

7.3 EMPLOYMENT ACCESS

Practice

The DHS provides equal opportunity in all terms and conditions of employment and services. The intent of this policy is to prevent discrimination and promote full realization of employment.

Scope

This employment access policy applies to, and must be an integral part of, every aspect of human resource practice in the employment, development, advancement, and treatment of employees and applicants for employment at DHS.

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Procedures

Related procedures and processes are delineated in DHS' Affirmative Action Compliance Plan (2008-2010) and include, but are not limited to:

- (1) Administrative Guidelines
- (2) Resolution of Discrimination Complaints
- (3) Internal Auditing and Reporting System
- (4) Development and Execution of Program

Appendices to the Affirmative Action Compliance Plan include, but are not limited to, procedures for:

- (1) Self-identification
 - a. Qualified Individuals with Disabilities and Qualified Protected Veterans
 - b. Individuals with Limited English Proficiency
- (2) Job Qualification Standards (Physical and Mental)
- (3) Reasonable Accommodation (Physical and Mental)
- (4) Vendor Relations
- (5) Posting of Notices
- (6) Discrimination Complaints including Consent/Release of Information and Complaint Withdrawal

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2.0 REFERENCES, ACRONYMS, AND DEFINITIONS

2.1 REFERENCES

Title VI and VII of the Civil Rights Act of 1964, as amended
 Title VIII of the Civil Rights Act of 1968, as amended
 Equal Pay Act of 1963
 Age Discrimination in Employment Act of 1967 and 1975 (Services)
 Title IX of the Education Amendment of 1972
 Rehabilitation Act of 1973, Sections 503 and 504
 Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 402
 Civil Rights Restoration Act of 1988
 Fair Housing Act of 1968, as amended
 Executive Order 11246, 30 Fed. Reg. 12319, as amended
 Executive Order 13166, 65 Fed. Reg. 50121, as amended
 Americans With Disabilities Act of 1990, (ADA), as amended
 Hawaii Revised Statutes, Chapter 371, Part II, and 378, Part I, as amended
 Department of Human Services Administrative Directives Update

2.2 ACRONYMS

AACP	AFFIRMATIVE ACTION COMPLIANCE PLAN
ADA	AMERICANS WITH DISABILITIES ACT, AS AMENDED
ASL	AMERICAN SIGN LANGUAGE
DCAB	DISABILITY AND COMMUNICATIONS ACCESS BOARD
DHS	DEPARTMENT OF HUMAN SERVICES
DIR	DIRECTOR, DEPARTMENT OF HUMAN SERVICES
DDIR	DEPUTY DIRECTOR, DEPARTMENT OF HUMAN SERVICES
LEP	LIMITED ENGLISH PROFICIENCY
OCR	OFFICE OF CIVIL RIGHTS
OLA	OFFICE OF LANGUAGE ACCESS (STATE OF HAWAII)
PCP	PUBLIC CONTACT POSITIONS
USHHS	UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
SEP	SELF EVALUATION PLAN
TDD	TELECOMMUNICATION DEVICES FOR THE DEAF

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2.3 DEFINITIONS

Access: Reasonable, meaningful access to employment and services at DHS

Affirmative Action Compliance: A voluntary plan and effort to prevent under-representation of protected groups (groups protected by Federal and State laws) and, to provide reasonable, meaningful access in the Department of Human Services workforce and services

Auxiliary aids and services: Equipment, materials and services that are used to provide effective communication for people who have visual, hearing, speech or cognitive disabilities

Bilingual/Multilingual: Any individual who has demonstrated proficiency in both spoken English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication

Complaint: An informal or formal (written) claim of discrimination which indicates that a person or group of persons were treated differently, or adversely impacted by action/s of the DHS, based on one or more memberships in protected groups (protected by Federal and State laws)

Complainant: Any person who alleges discrimination in employment and/or provision of DHS services and/or benefits

Department or DHS: the Hawaii Department of Human Services, including its administratively attached agencies and commissions

Director: Director of the Hawaii Department of Human Services

Discrimination: Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws)

External Enforcement Agencies: Government agencies that enforce statutes prohibiting discrimination, and which are responsible for receiving, investigating and adjudicating discrimination complaints. Federal external enforcement agencies include, but are not limited to, the U.S. Equal Employment Opportunity Commission, U. S. Department of Justice, U. S. Department of Labor, U. S. Office of Federal Contract Compliance Programs, U.S. Department of Health and Human Services, U. S. Department of Housing

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and Urban Development, U. S. Department of Education, U.S. Department of Agriculture, Social Security Administration. State external enforcement agencies or commissions include the Hawaii Civil Rights Commission and the Department of Labor and Industrial Relations, Office of Language Access (OLA).

Facility: Any building or space where DHS programs, services, activities, employment or other functions occur

Factors Protected by Law: Characteristics of a person or group of persons, which are protected under civil rights and other laws. For employment, these factors include race, color, national origin, sex, religion, age, disability, arrest and court records, sexual orientation, marital status, veteran status and assignment of income for the purpose of child support obligations for services these factors include race, color national origin, age, sex, religion, disability status and political beliefs.

Frequently-Encountered Language: Language spoken by a significant number or percentage of the population eligible to be served, employed by or directly affected by DHS programs, services, activities and functions

Interpreter: A bilingual or multilingual individual who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English shall not be considered an interpreter. Generally, an interpreter is trained in interpretation and has proficient knowledge and skills in English and at least one other language and who uses those skills and training to make possible communication in one language by orally converting what is said to another language while retaining the same meaning.

Interpretation: Interpretation means the oral rendition of a spoken message from one language to another, preserving the intent and meaning of the original message

LEP Plan: DHS' state-approved language access plan required by Hawaii Revised Statutes 371-34. as amended.

Limited English Proficient (LEP) Person: Any individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak or understand English in a manner that permits him or her to communicate effectively with DHS and have meaningful access to and an equal opportunity to participate fully in services, activities, programs, employment, or other benefits administered by the Department of Human Services

Organizational Units: All administratively attached agencies and commissions, staff offices and divisional segments that comprise the Department of Human Services

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Participant: Any person who has applied for and is receiving benefits

Protected Group: An individual identified in a group that is protected by Federal and State Laws, as amended.

Person with a Disability: An individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities, has a record of such impairment, or is regarded as having such and impairment

Primary Language: the language that an LEP individual identifies as the language that he or she uses to communicate effectively, and is the language which the individual has indicated the individual would prefer to use to communicate with the Department of Human Services

Public Contact Positions: DHS positions that require public contact daily or weekly.

Respondent/s: Any person or group of persons alleged to be responsible for discrimination

Self-Evaluation: A voluntary plan and effort to assess programs, services, activities, facilities and employment access at the Department of Human Services.

Service Applicant/Recipient: Any person applying for, having the potential for applying, or receiving program benefits or services provided by the Department of Human Services

Service Provider: Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services

Sight Translation: Occurs when an interpreter reads written text and orally converts what is written to another language while retaining the same meaning.

Sub-Recipient: Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because

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reimbursement is on a cost-reimbursement basis (OMB Circular A-133-- Guidance on distinguishing between a sub-recipient and a vendor is provided in .210)

Translate: Translate means to convert written materials from one language into an equivalent written document in another language while maintaining the same coherence and meaning. Translation means an activity comprising the interpretation of the meaning of a document in one language and the production, in another language, of a new, equivalent document.

Vital Documents: include, and are not limited to: applications, consent forms, complaint forms, letters or notices pertaining to eligibility for benefits, letters or notices pertaining to the reduction, denial or termination of services or benefits or that require a response, written tests that test competency for a particular license, job or skill, documents that must be provided by law; and notices regarding the availability of free language assistance services.

INTERNAL COMMUNICATION FORM

Suspense

DEPARTMENT OF HUMAN SERVICES

Subject: DIRECTOR'S MEMORANDUM #12-01
OPPORTUNITY TO PARTICIPATE IN
PROGRAMS AND SERVICES

Originator: PERS/CRCS
586-4955

To: SOs, DAs, BAs, SAs, USs
OYS, HPHA, CSW

From: DIRECTOR

Date: 01/05/12

Memo No. 1

The Department of Human Services (DHS) is committed to assuring that program benefits and services are made available to all persons and provided to all eligible individuals. This commitment is consistent with Federal and State statutes and regulations that prohibit discrimination in the provision of services by recipients of Federal and State funds.

To ensure that all persons are provided with an equal opportunity to participate in, and benefit from our programs, services and activities, we must eliminate barriers that may preclude meaningful access for otherwise qualified individuals who may have special needs. In particular, persons with limited English skills and/or disabilities may require assistance to access and participate in our programs, services and activities in and outside our facilities.

This memorandum serves to reinforce and make clear the commitment of the DHS to providing free interpreter services to applicants and recipients of DHS services, programs, and activities. Collecting data relative to the need for interpreter services (including, but not limited to, interpretation and/or translation of vital written documents) is important to this commitment.

All employees and sub-recipients of Federal and State funding must be aware of this commitment and shall conduct themselves appropriately when servicing applicants/participants. Discrimination will not be tolerated by the DHS.

We have an opportunity and obligation to provide services through processes that are free of discriminatory practices. Employees who engage in discriminatory conduct shall be subject to disciplinary action in accordance with the applicable personnel rules and regulations and/or bargaining unit agreement.

Providing Equal Access for Limited-English Proficient (LEP) Persons

The exclusion of LEP persons from our programs because of their inability to communicate in English could be considered a form of national origin discrimination under the Civil Rights Act, as well as Hawaii Revised Statutes, Chapter 371, Part II. In order to comply with these laws and statutes, and more importantly, to benefit from the opportunities to serve LEP persons, as well as ensure that they are free from discriminatory practices at the DHS, we must take the following steps to assure that all eligible persons with LEP have meaningful access to the benefits, services, and activities we provide:

Subject: PROGRAMS AND SERVICES

Originator: 586-4955

To: OYS, HPHA, CSW

From: DIRECTOR

Date:

Memo No. 1

- ✓ Ensure that LEP persons are informed of their right to be provided with interpreter services free of charge to them.
- ✓ Provide interpretation and/or translation of vital documents, such as applications, consent forms, and notices regarding denial or changes in benefits to promote understanding based on guidelines from program funding agencies and State laws.
- ✓ Contact qualified individuals and organizations, profit and/or non-profit when interpreter services are needed. Utilize qualified multi-lingual staff as well as qualified employees who have volunteered to serve as interpreters. Follow your Division's protocol in using court interpreter list.
- ✓ Utilize technology effectively to promote clear communication and understanding about programs, processes, and rights.

Additionally, the following guidelines must be followed by DHS, and its providers and other sub-recipients.

- Notices Up-to-date notices must be placed in all public waiting areas.
- Data Collection Each DHS Division, administratively attached agency or commission, and sub-recipient of Federal and State funding must collect and report data relative to language access needs.
- Training and Follow-up Annual refresher training and follow-up of procedures and protocols are required.

Providing Equal Access for Persons with Disabilities and Victims of Domestic or Sexual Violence

Federal laws, such as the Genetics Information and Nondiscrimination Act (GINA), the Americans with Disabilities Act, as Amended (ADAAA), and the Rehabilitation Act prohibit discrimination against individuals on the basis of genetics and/or disabilities.

Additionally, a new State law, effective January 1, 2012, prohibits discrimination in employment, provides for reasonable accommodations, and further protects individuals who are Victims of Domestic or Sexual Violence in the State of Hawaii.

In keeping with DHS' policies (4.10.3 and 4.10.4), and to meet our obligations under the law, as well as to benefit from the ideas and efforts of individuals we serve, the DHS will:

Subject: PROGRAMS AND SERVICES

Originator: 586-4955

To: OYS, HPHA, CSW

From: DIRECTOR

Date:


Memo No. 1

- ✓ Ensure our facilities that serve the public on a regular basis are physically accessible to applicants, participants and employees with disabilities. If this is not readily achievable, services shall be programmatically accessible to qualified individuals.
- ✓ Provide reasonable accommodations to ensure access to programs, services and employment for persons with disabilities and, to employment for victims of domestic or sexual violence.
- ✓ Make reasonable modifications to our procedures and practices to ensure that persons with disabilities are not excluded from participation in our programs, services, and activities.

This Internal Communication Form (ICF) should be disseminated to all employees, providers and sub-recipients and filed in the Director's Memorandum section of the DHS Policies and Procedures Manual (Reference 4.10.3 and 4.10.4.) This ICF replaces Director's Memorandum #11-01.



Director

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			COPY	

INTRODUCTION The Department of Human Services (DHS) will prevent discrimination in employment and in provision of its programs, services and activities. State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services to any particular person or groups of persons seeking services at the DHS. Further, DHS must prevent discrimination and ensure that all persons are free from discriminatory practices in employment and in the application for and provision of services. Discrimination, harassment, bullying, and retaliation for having filed a complaint are prohibited by the DHS' policy and by Federal and State law and will not be tolerated at the DHS.

1.0 PURPOSE:

The primary purpose of this policy is the prevention of discrimination in employment and services at the DHS. The purpose surrounds establishing a timely, uniform, and effective means of resolving internal discrimination complaints filed by employees, former employees, applicants for employment and service applicants/recipients. This is to enhance the morale and efficiency of employees, and to encourage public confidence in the DHS' commitment towards providing services and benefits exclusive of discriminatory practices.

2.0 REFERENCES, ACRONYMS, DEFINITIONS AND LEGAL AUTHORITY: SEE APPENDIX A

3.0 POLICY:

It is the policy of the Department of Human Services (DHS) to assure a work and service environment free from discriminatory practices for all department employees, applicants for employment, applicants for participation in the DHS programs, and participants in DHS programs. The work and service environments shall be without discrimination, retaliation for having filed a complaint, and/or harassment on the basis of race, color, religion, ancestry (national origin), sex, sexual orientation, age, marital status, assignment of income for child support obligations, disability, genetic information, arrest/court record, breastfeeding, credit history/credit report and National Guard participation.

In keeping with this policy, complaints of discrimination, harassment, and retaliation are to be processed fairly and promptly.

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Individuals filing a complaint, or participating in the complaint process have the right to:

- a. Representation by legal counsel, union agent, if appropriate, or designee of their choice.
- b. Confidentiality, provided such confidentiality does not impede the process of fairly and thoroughly investigating the complaint. (An individual will be asked to complete a Consent/Release Form—See APPENDIX B).
- c. Freedom from restraint, interference, coercion, or retaliation in presenting complaints or in providing information in the resolution of problems or complaints.
- d. Forego this internal complaint process and file a complaint directly with an appropriate external enforcement agency.
- e. Alternative means of participation, such as the provision of an interpreter (i.e., sign or other language), written material in large print, and other reasonable modifications, free of charge to the individual.

4.0 SCOPE:

The DHS is committed to employment/training decisions being based so as to further the principle of equal opportunity and affirmative action, and ensuring that selections for employment/training and promotion decisions are in accordance with the principles of equal opportunity and affirmative action for employees, applicants for employment, applicants for participation, and participants in DHS-sponsored programs.

All services provided to the public by the DHS or DHS-sponsored programs and activities shall be on an equal and non-discriminatory basis. No person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination, harassment bullying or retaliation under any phase or level of program or activity.

This policy applies to all the DHS divisions and their branches, sections and units, as well as agencies and commissions administratively attached to the DHS, individuals, and organizations that receive State and Federal funds through contracts or other arrangements with the DHS. It covers employees, former employees, clients, applicants, and potential applicants for employment and services, service providers, and contractors. This also includes individuals subjected to alleged discrimination because of their association with persons who are protected by non-discrimination law.

All employees and applicants for employment or services shall be entitled to an environment free of discrimination, including harassment and bullying. Harassment based on a person's membership in a protected group is strictly prohibited, and will not be tolerated at the DHS..

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5.0 RESPONSIBILITIES : SEE APPENDIX C

6.0 DISCRIMINATION COMPLAINT PROCEDURES (DEPARTMENTAL):

Discrimination complaint procedures are available in DHS Policy and Procedures 4.10.1 APPENDIX D and are applicable to all Department of Human Services offices and programs, administratively attached agencies, commissions and private entities receiving Federal or State funds from the DHS. In order for the DHS to maintain consistency in the administration of discrimination complaints procedures and to comply with various requirements, recipients who operate Federally/State funded programs for the DHS in the State of Hawaii may use these procedures. Recipients who desire to develop internal complaint procedures must ensure they are reviewed by the DHS Civil Rights Compliance Staff prior to use. Complainants should follow the appropriate DHS Departmental Discrimination Complaint Procedure (APPENDIX D) when filing discrimination complaints.

7.0 IMPLEMENTATION:

In implementing this Discrimination Complaint policy and procedure, the following shall apply.

Confidentiality Confidentiality will be maintained to the extent possible to successfully conduct a thorough investigation. Information regarding the complaint will be shared with appropriate individuals on a "need to know" basis. Complainants will be asked to sign a consent/release form indicating their consent or denial of consent to release information. (Appendix B)

Retaliation The Department of Human Services prohibits retaliation against any individual who files a discrimination complaint, participates in complaint proceedings or who otherwise opposes acts of discrimination. Employees and applicants have a right to complain about discrimination, harassment, or bullying without fear of retaliation.

Violations of Policy Employees who violate this policy shall be subject to disciplinary action in accordance with the respective collective bargaining agreement and related DHS policies. Contractors will be at risk of non-renewal of contract. Clients will be at risk for seeking services elsewhere. Applicants for employment, programs and services could be asked to withdraw from applying for programs or services as warranted.

Discriminatory practices will not be tolerated at the DHS in any form, and appropriate measures will be taken to prevent discrimination and to address discriminatory acts.

Disciplinary and other action shall be designed to correspond with the seriousness of the action, and be reasonably calculated to stop the discrimination and to ensure that the discrimination will not recur.

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With approval of this Departmental Discrimination Complaint Policy by the Director, the policy shall be effective and implemented and will remain in effect until such time it is cancelled or superseded by order of the DHS Director. This policy is in addition to DHS Directive 2011-01 and must be displayed prominently on bulletin boards.

This part shall supersede any prior directive concerning discrimination. Authorized modifications of content will not affect the life of these policies and procedures, unless so specified by the Director.

APPROVED: _____



Patricia Mc Manaman, Director

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2.0 REFERENCES, ACRONYMS, DEFINITIONS AND LEGAL AUTHORITY

2.1 REFERENCES

Civil Rights Act, Title VI and VII, as amended
 Age Discrimination in Employment Act (ADEA)
 Americans with Disabilities Act (ADA), Title I & II, as amended
 The Pregnancy Discrimination Act
 The Equal Pay Act (EPA)
 Rehabilitation Act, Sections 501 and 505
 The Genetic Information Nondiscrimination Act of 2008 (GINA)
 HRS Chapter 378 Part 1, and HRS 368-1.5
 Food Stamp Act (SNAP)
 Vietnam Era Veterans' Readjustment Assistance Act, Section 402
 Fair Housing Act, as amended, and others

2.2 ACRONYMS

ADA	Americans with Disabilities Act, as amended
ADEA	Age discrimination in Employment Act
CRCS	Civil Rights Compliance Staff
DHS	State of Hawaii, Department of Human Services, including its administratively attached agencies and commissions
DIR	Director of the State of Hawaii, Department of Human Services
EPA	Equal Pay Act
GINA	Genetic Information Nondiscrimination Act
HCRC	Hawai'i Civil Rights Commission
HRS	Hawai'i Revised Statutes
SNAP	Supplemental Nutrition Assistance Program

2.3 DEFINITIONS

Applicant for employment Any person who submits a written application for State employment with the Department of Human Services.

Complaint An informal or formal (written) claim of discrimination which indicates that a person or group of persons were treated differently, or adversely impacted by action/s of the DHS, based on one or more memberships in protected groups.

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Complainant Any person who alleges discrimination in the employment process, or in the provision of services and/or benefits.

Department State of Hawai'i Department of Human Services and its administratively attached agencies and commissions.

Discrimination Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups.

External Enforcement Agencies Government agencies which enforce statutes prohibiting discrimination, and which are responsible for receiving, investigating and adjudicating discrimination complaints. Federal agencies include, but are not limited to the U. S. Equal Employment Opportunity Commission. U. S. Department of Justice, U. S. Department of Labor, Office of Federal Contract Compliance Programs, and any other federal agency from which the Department receives funding. The State agency is the Hawai'i Civil Rights Commission (HCRC).

Factors Protected by Law Characteristics of a person or group of persons, which are protected under civil rights laws. For employment these factors include, race, color, religion, ancestry (national origin), sex, sexual orientation, age, marital status, veteran status, assignment of income for child support obligations, disability, genetic information, arrest/court record, breastfeeding, credit history/credit report and National Guard participation. Services factors include race, color, national origin, age, sex, religion, disability status, genetic information, and political beliefs for the SNAP Program.

Harassment Harassment or bullying based on a person's membership in a protected group--race, color, religion, ancestry (national origin), sex, sexual orientation, age, marital status, assignment of income for child support obligations, disability, genetic information, arrest/court record, breastfeeding, credit history/credit report, and/or National Guard participation (and political beliefs for the SNAP Program).

Respondent/s Any person or group of persons alleged to be responsible for discrimination.

Service Provider Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services.

Service Applicant/Recipient Any person applying for, having the potential for applying,

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or receiving program benefits or services provided by the Department of Human Services.


Sexual Harassment Unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature is unacceptable when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of services;
- submission to or rejection of such conduct by an individual is used as the basis for employment or receipt of services decisions affecting said individual; or
- such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.

Sub-Recipient Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides administer the program directly, but does not include an individual applicant or participant services to and has contact with applicants and participants in the same manner as DHS if DHS were to who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis (OMSB Circular A-133—Guidance on distinguishing between a sub-recipient and a vendor is provided in .210).

2.4 LEGAL AUTHORITY

Civil Rights Act, Title VI and VII, as amended
Age Discrimination in Employment Act (ADEA)
Americans with Disabilities Act (ADA), Title I & II, as amended
The Pregnancy Discrimination Act
The Equal Pay Act (EPA)
Rehabilitation Act, Sections 501 and 505
The Genetic Information Nondiscrimination Act of 2008 (GINA)
HRS Chapter 378 Part 1, and HRS 368-1.5
Food Stamp Act (currently SNAP)
Vietnam Era Veterans' Readjustment Assistance Act , Section 402
Fair Housing Act, as amended, and others

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5.0 RESPONSIBILITIES

5.1 DEPARTMENT HEAD (DIRECTOR, DEPARTMENT OF HUMAN SERVICES)

The DIRECTOR of the DHS is responsible for the establishment, modification and implementation of the departmental uniform complaint procedure. The Director may designate these function to others.

5.2 DEPARTMENTAL PERSONNEL OFFICER

The Departmental Personnel Officer shall monitor and oversee the application of this policy and procedure and provide staff services to the Department Head.

5.3 CIVIL RIGHTS COMPLIANCE STAFF The Civil Rights Compliance Staff (CRCS) of the Personnel Office, shall be responsible for providing technical guidance to management personnel in the resolution of informal discrimination complaints. The CRCS shall also be responsible for receiving, processing and investigating formal internal discrimination complaints.

5.4 MANAGEMENT PERSONNEL

Management Personnel, in consultation with the CRCS, shall be responsible for receiving and resolving informal discrimination complaints by employees, clients, and potential service applicants/recipients.

5.5 COMPLAINANTS

Complainants shall follow the provisions of the policy and procedures contained herein and on Forms DHS 6000, 6006, and 6007

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STATE OF HAWAII

Department of Human Services

CONSENT / RELEASE FORM

Your Name: _____
 Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

Initial on the
line above if
you give
consent.

CONSENT GRANTED – I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

Initial on the line
above if you deny
consent.

CONSENT DENIED – I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, may result in the investigation being close.


Signature _____

Date _____

Please return completed, signed and dated form to:

State of Hawaii
 Department of Human Services
 PERS/CRCS
 PO Box 339
 Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov

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6.0 PROCEDURES (DEPARTMENTAL DISCRIMINATION COMPLAINTS)

6.1 EMPLOYMENT COMPLAINTS

a. Informal Complaints

1. Employees who believe they have been discriminated against, may discuss the matter with their immediate supervisor, division administrator or designee (i.e., management personnel). If employees elect to proceed through the informal complaint process, they should do so within thirty (30) days from the most recent incident of alleged discrimination.
2. Complainants shall be informed that they may forego the informal complaint process and file a formal written complaint directly with the CRCS.
3. After discussing the situation with Complainant, management personnel shall consult with the CRCS in order to conduct an appropriate investigation; prepare a written response to Complainant summarizing the investigative findings; and take remedial measures, if necessary to address the situation.
4. If the matter is not resolved to Complainant's satisfaction, Complainant may file a formal complaint with the CRCS, in accordance with the procedures outlined below.

b. Formal Complaints

1. Employees or applicants for employment, may file a formal internal complaint in writing with the CRCS. Complaints must be filed within ninety (90) days from the most recent incident of alleged discrimination using the "Departmental Discrimination Complaint Form." (APPENDIX D, Attachment 1 Forms DHS 6000, 6006)
2. Upon receipt of a written complaint, the CRCS shall conduct a fact-finding investigation. The investigation shall include, but is not limited to, contacting the Complainant to clarify or obtain additional facts relative to the complaint, and obtaining information from individuals with apparent knowledge of Complainant's allegations.

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3. Upon completion of the investigation, the CRCS shall prepare a written summary of the investigative findings for the Department Head's review.
4. The Department Head shall review the evidence and render a decision in writing, with copies to Complainant and Respondent/s. the decision shall include:
 - (a) Reasons and explanation for the decision; and
 - (b) Alternative avenues of recourse available to Complainant.
5. If the investigation confirms that discrimination occurred, the Department will take immediate corrective action.
6. If complaint is not resolved to Complainant's satisfaction, Complainant may appeal to an appropriate external enforcement agency. Complainants shall be advised that they have a timeframe of 180 days to file a complaint with the Hawai'i Civil Rights Commission and 300 days to file same with the Equal Employment Opportunity Commission. Complainants must be advised that they can file concurrent complaints.

6.2 SERVICE COMPLAINTS


a. Informal Complaints

1. Service Applicants/Recipients or potential applicants who believe they have been discriminated against in the application for, or provision of services, may discuss their concerns with the unit supervisor, division administrator, or designee (i.e., management personnel). If Service Applicants/Recipients elect to proceed through the informal complaint process, they should do so within thirty (30) days from the most recent incident of alleged discrimination.
2. After discussing the situation with Complainant, management personnel shall consult with the CRCS in order to conduct an appropriate investigation; prepare a written response to Complainant summarizing the investigative findings; and take remedial measures, if necessary, to address the situation.
3. If the matter is not resolved to Complainant's satisfaction, a formal complaint may be filed with the CRCS, in accordance with the procedures outlined below.

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b. Formal Complaints

1. Service Applicants/Recipients, or potential applicants, may file a formal written complaint with the CRCS, within ninety (90) days from the most recent incident of alleged discrimination, using the "Departmental Discrimination Complaint Form." (APPENDIX D, Attachment 1 Forms DHS 6000, 6006)
2. Upon receipt of a written complaint, the CRCS shall conduct a fact-finding investigation. The investigation shall include, but is not limited to, contacting the Complainant to clarify or obtain additional facts relative to the complaint, and obtaining information from individuals with apparent knowledge of Complainant's allegations. These individuals will be asked to complete a Consent/Release Form. (APPENDIX D, Attachment 1, DHS 6006)
3. Upon completion of the investigation, the CRCS shall prepare a written summary of the investigative findings for the Department Head's review.
4. The Department Head shall review the evidence obtained during the investigation and render a decision in writing, with a copy to Complainant and Respondent/s. The decision shall include:
 - a. Reasons and explanation for the decision; and
 - b. Alternative avenue of recourse available to the Complainant>
5. If the investigation reveals that discrimination occurred, the Department shall take remedial measures to ensure that Complainant is afforded an equal opportunity to participate in, and benefit from its programs, services and activities.
6. If the matter is not resolved to Complainant's satisfaction, an appeal may be made to an appropriate external enforcement agency.

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STATE OF HAWAII

Department of Human Services

DISCRIMINATION COMPLAINT FORM

NAME: _____ XXX-XX-_____
 SSN (last four digits) PHONE (Home) PHONE (Work / Cell)
 ADDRESS: _____ CITY STATE ZIP CODE

EMPLOYER(Division/Unit) if applicable _____

1. JOB TITLE _____

2. BASIS OF ALLEGED DISCRIMINATION (Choose appropriate item/s.) ☐ Harassment

<input type="checkbox"/> Race/color	<input type="checkbox"/> National Origin/Ancestry	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Sex/Gender	<input type="checkbox"/> Breast-Feeding	<input type="checkbox"/> Marital Status
<input type="checkbox"/> Religion	<input type="checkbox"/> Arrest/Court Records	<input type="checkbox"/> Age
<input type="checkbox"/> Disability	<input type="checkbox"/> Child Support Assignment	<input type="checkbox"/> Citizenship
<input type="checkbox"/> National Guard Absence	<input type="checkbox"/> Sexual Orientation	<input type="checkbox"/> Political Belief
<input type="checkbox"/> Genetic Information	<input type="checkbox"/> Veteran Status	<input type="checkbox"/> Credit History

3. Explain briefly what, if anything, you have done about the alleged discrimination.

4. Does your complaint concern alleged discrimination in services delivery? ☐ Yes ☐ No

5. Does your complaint concern alleged discrimination in employment? ☐ Yes ☐ No

6. Is the alleged discrimination against you? ☐ No ☐ Yes, By Whom? _____

7. Please explain how and why you believe you were discriminated against. Please be SPECIFIC.
 Please include names, dates, witnesses and places of the incident/s.

(Attach additional sheet if you required more space.)

8. Is the alleged discrimination against others? ☐ No ☐ Yes, please list: Name(s), Address(es) and Phone Number(s).

9. What is the specific date or period of time of the alleged discrimination?


10. Please indicate the relief/remedy you are seeking. _____

11. I will notify Department of Human Services (DHS), Personnel, Civil Rights Compliance Service (CRCS), PO Box 339, Honolulu HI 96809-0339, if I change my address or telephone number. I swear or affirm that I have read the above statements and that they are true to the best of my knowledge and belief.

PLEASE COMPLETE, REVIEW, SIGN, DATE AND RETURN TO THE ABOVE ADDRESS.

Signature _____

Date _____

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STATE OF HAWAII

Department of Human Services

CONSENT / RELEASE FORM

Your Name: _____
 Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

Initial on the line above if you give consent.

CONSENT GRANTED – I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

Initial on the line above if you deny consent.

CONSENT DENIED – I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, may result in the investigation being close.


Signature _____

Date _____

Please return completed, signed and dated form to:

State of Hawaii
 Department of Human Services
 PERS/CRCS
 PO Box 339
 Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov

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STATE OF HAWAII

Department of Human Services

The purpose of this form is to assist you in filing a complaint with the Department of Human Services. You are not required to use this form, a letter with the same information is sufficient. HOWEVER, THE INFORMATION REQUESTED ABOVE MUST BE PROVIDED, WHETHER OR NOT THE FORM IS USED.

(PLEASE READ THE ATTACHED NOTICE ON DISCRIMINATION COMPLAINTS AND NON-RETALIATION REQUIREMENT.)

NOTICE TO INDIVIDUALS FILING DISCRIMINATION COMPLAINTS

Individuals alleging discriminatory treatment in services and/or employment have a right to file a complaint using the Department of Human Services (DHS) DISCRIMINATION COMPLAINT FORM, DHS 6000 (Rev 06-2009). A letter with the same information requested on the form can be used if necessary. The complaint should be sent to:

STATE OF HAWAII
 Department of Human Services
 Personnel/CRCS
 P.O. Box 339
 Honolulu, Hawaii 96809-0339

Tel: (808)586-4955 TTY: (808)586-4959
gwatts@dhs.hawaii.gov

Individuals also have a right to seek redress for their complaint through the appropriate:

1. Collective Bargaining Unit
2. State and Federal Compliance Agencies, and/or
3. Civil Court action.

Confidentiality: All information shall be held with strictest confidentiality, and release of information shall be allowed only when necessary to resolve the issue/s in the complaint. A complainant consent release form (DHS 6006) will be required to complete an investigation.

Non-retaliation: Section 704(a) of the Civil Rights Act of 1964, as amended states:


It shall be an unlawful employment practice for an employer to discriminate against any of his/her employees or applicant/s for employment (or services) because he/she has opposed any practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

Additionally, laws enforced prohibit recipients of Federal financial assistance from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. Individuals seeking services and/or employment with the Department of Human Services are advised of this non-retaliation requirement and are instructed to notify the Department's Personnel Office/CRCS, P.O. Box 339, Honolulu, Hawaii 96809-0339, if any attempt at retaliation is made as a result of filing a complaint.

Rights and Responsibilities: (The following list highlights some rights and responsibilities and is NOT all inclusive.)

1. You have the right to have an attorney represent you, at your own expense, or to have any other personal representative of your choice at any level of a grievance. Such representative shall not be a departmental or State EO representative or Personnel Specialist.
2. You have the right to discontinue your complaint at any time by submitting a written statement of withdrawal. (DHS 6007)
3. You have the right to be notified of each of the steps taken in the complaint procedure, to be notified ahead of time of any inquiry or conference, and to be notified in writing of the decision reached at any level.
4. You have the right to reasonable accommodations, including and not limited to language interpreters/translators, auxiliary aids and/or facilities and parking for individuals with disabilities. You are responsible for requesting required accommodations.
5. At any point in time, you have the right to file your complaint with the State or Federal agencies listed in this notice as appropriate. You are responsible to inquire directly with these agencies regarding the steps necessary for redress.

DHS 6000 (rev 03-2011)

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STATE OF HAWAII

Department of Human Services

Following is a list of additional entities where you might file a complaint as appropriate:

State of Hawaii
 Hawaii Civil Rights Commission
 830 Punchbowl Street, Room 411
 Honolulu, Hawaii 96813
 Telephone (808) 586-8636
 State Toll Free 1 (808) 468-4644, ext. 68636

U.S. Department of Labor
 Office of Contract Compliance Programs
 Prince Kuhio Federal Building, Room 7326
 300 Ala Moana Boulevard
 Honolulu, Hawaii 96850
 Telephone (808) 541-2933

U.S. Department of Health and Human Services
 Office of Civil Rights, Region IX
 90 7th Street, Suite 4-100
 San Francisco, California 94103-6705
 Telephone (415) 437-8324

U.S. Department of Agriculture
 Office of Civil Rights, Room 326-W, Whitten Building
 1400 Independence Avenue, SW
 Washington, DC 20250-9410 (202)720 5964 or
 Office of Civil Rights Food and Nutrition Service Western Region
 90 7th Street, Suite 10-100
 San Francisco, CA 94103
 Telephone (415) 705-1322 TTY (800) 735-2922

U.S. Department of Justice
 Office of Civil Rights
 810 7th Street, NW
 Washington, D.C. 20531
 Telephone (202) 307-0690

U.S. Department of Housing and Urban Development
 Office of Civil Rights
 451 7th Street, SW
 Washington, D.C. 20410
 Telephone (202) 708-1112 TTY (202) 708-1455


NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended states:

"It shall be unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment....because he/she has opposed any practice made an unlawful employment practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title."

Persons filing charges of employment discrimination are advised of this non-retaliation requirement and are instructed to notify the Department's Civil Rights Compliance Staff (808) 586-4955 if any attempt at

DHS 6000 (rev 03-2011)

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State of Hawaii
 Department of Human Services
COMPLAINT WITHDRAWAL FORM

I, _____ hereby WITHDRAW my Discrimination Complaint
Full Name
 signed by me on (Date) _____. I am revoking any consent I might have
 granted previously for release of information. I am voluntarily revoking this consent and the
 request for an investigation and do not wish to proceed with this complaint. I have received
 no promises, rewards or concessions which might have influenced me in withdrawing this
 complaint.

 Complainant

 Date

Note: Please be advised that no one may intimidate, threaten, coerce, or engage in other
 discriminatory conduct against anyone because he or she has either taken action or
 participated in an action to secure rights protected by civil rights laws. Any individual
 alleging such harassment or intimidation may file a complaint with appropriate internal or
 external agencies who will investigate such a complaint if the situation warrants.

Please help us by checking all statements that apply, sign and date and return to
 DHS, PERS/CRCS, P.O. Box 339, Honolulu, HI 96809-0339.

I, the undersigned, wish to withdraw my complaint of discrimination that I filed against
 _____ because:

- ___ 1. I no longer wish to pursue my complaint because the issues I raised are now resolved.
- ___ 2. I no longer believe that I have a discrimination complaint.
- ___ 3. I am currently receiving the benefits I am entitled to receive.
- ___ 4. I understand that the changes in current laws prohibit me from receiving benefits.

 Signature

 Date

Questions may be submitted to: gwatts@dhs.hawaii.gov

DISCRIMINATION COMPLAINT FORM

NAME: _____ XXX-XX _____
 SSN (last four digits) PHONE (Home) _____ PHONE (Work/Cell) _____
 ADDRESS: _____ CITY _____ STATE _____ ZIP CODE _____

EMPLOYER (Division/Unit), if applicable _____

1. JOB TITLE _____

2. BASIS OF ALLEGED DISCRIMINATION. Choose appropriate item(s).

- | | | |
|---|---|---|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> National Origin/Ancstry | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Sex/Gender | <input type="checkbox"/> Breast-Feeding | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Arrest/Court Records | <input type="checkbox"/> Age |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Child Support Assignment | <input type="checkbox"/> Citizenship |
| <input type="checkbox"/> National Guard Absence | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Political Belief |
| <input type="checkbox"/> Genetic Information | <input type="checkbox"/> Veteran Status | <input type="checkbox"/> Credit History |
| <input type="checkbox"/> Harassment | <input type="checkbox"/> Domestic/Sexual Violence Victims | |

Explain briefly what, if anything, you have done about the alleged discrimination?

3. Does your complaint concern alleged discrimination in services delivery? ☐ Yes ☐ No

4. Does your complaint concern alleged discrimination in employment? ☐ Yes ☐ No

5. Is the alleged discrimination against you? ☐ No ☐ Yes, By Whom? _____

6. Explain how and why you believe you were discriminated against. Please be SPECIFIC and include any names, dates, witnesses and places of the incident(s). *(Attach additional sheets if you require more space.)*

7. Is the alleged discrimination against others? ☐ No ☐ Yes. List Name(s), Address(es) and Phone Number(s)

8. What is the specific date or period of time of the alleged discrimination?

9. Please indicate the relief/remedy you are seeking.

10. I will notify Department of Human Services (DHS), Personnel Office, Civil Rights Compliance Staff (CRCS), P. O. Box 339, Honolulu, Hawaii 96809-0339, if I change my address or telephone number. I swear or affirm that I have read the above statements and that they are true to the best of my knowledge and belief.

PLEASE COMPLETE, REVIEW, SIGN, DATE AND RETURN TO THE ABOVE ADDRESS.

Signature _____

Date _____

CONSENT / RELEASE FORM

Your Name: _____

Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

Initial on the line
above if you give
consent.

CONSENT GRANTED – I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

Initial on the line
above if you deny
consent.

CONSENT DENIED – I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, may result in the investigation being closed.

Signature

Date

Please return completed, signed and dated form to:

State of Hawaii
Department of Human Services
PERS/CRCS
P. O. Box 339
Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov

The purpose of this form is to assist you in filing a complaint with the Department of Human Services. You are not required to use this form; a letter with the same information is sufficient. HOWEVER, THE INFORMATION REQUESTED ABOVE MUST BE PROVIDED, WHETHER THE FORM IS USED OR NOT.

(PLEASE READ THE ATTACHED NOTICE OF DISCRIMINATION COMPLAINTS
AND NON-RETALIATION REQUIREMENT)

NOTICE TO INDIVIDUALS FILING DISCRIMINATION COMPLAINTS

Individuals alleging discriminatory treatment in services and/or employment have a right to file a complaint using the Department of Human Services (DHS) DISCRIMINATION COMPLAINT FORM, DHS 6000 (Rev. 02/2012). A letter with the same information requested on the form can be used if necessary. The complaint should be sent to:

STATE OF HAWAII
Department of Human Services
Personnel Office/Civil Rights Compliance Staff
P. O. Box 339
Honolulu, Hawaii 96809-0339
Tel: (808) 586-4955 TTY: (808) 586-4950

gwatts@dhs.hawaii.gov

Individuals also have a right to seek redress for their complaint through the appropriate:

1. Collective Bargaining Unit
2. State or Federal Compliance Agencies, and/or
3. Civil Court action.

Confidentiality: All information shall be held with strictest confidentiality, and release of information shall be allowed only when necessary to resolve the issue(s) in the complaint. A complainant consent release form (DHS 6006) will be required to begin an investigation.

Non-retaliation: Section 704(a) of the Civil Rights Act of 1964, as amended, states:

“It shall be an unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment (or services) because he/she has opposed any practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.”

Additionally, laws enforced prohibit recipients of Federal financial assistance from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. Individuals seeking services and/or employment with the Department of Human Services are advised of this non-retaliation requirement and are instructed to notify the Department's Personnel Office/Civil Rights Compliance Staff, if any attempt at retaliation is made as a result of filing a complaint.

Rights and Responsibilities: The following list highlights some rights and responsibilities and is NOT all inclusive:

1. You have the right to have an attorney represent you, at your own expense, or to have any other personal representative of your choice at any level of a grievance or discrimination complaint. Such representative shall not be a departmental, State or Federal equal employment opportunity representative or personnel specialist.
2. You have the right to discontinue your complaint at any time by submitting a written statement of withdrawal (DHS 6007).
3. You have the right to be notified of each of the steps taken in the complaint procedure, to be notified ahead of time of any inquiry or conference, and to be notified in writing of the decision reached at any level.
4. You have the right to reasonable accommodations, including and not limited to, language interpreters/translators, auxiliary aids and/or facilities and parking for individuals with disabilities. You are responsible for requesting required accommodations.
5. At any point in time, you have the right to file your complaint with the State or Federal agencies listed in this notice as appropriate. You are responsible to inquire directly with these agencies regarding the steps necessary for redress.

The following is a list of additional entities where you might file a complaint as appropriate:

State of Hawaii
Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, HI 96813
Telephone: (808) 586-8636

U. S. Department of Labor
Office of Contract Compliance Programs
Prince Kuhio Federal Building, Room 7326
300 Ala Moana Boulevard
Honolulu, HI 96850
Telephone: (808) 541-2933

U. S. Department of Health and Human Services
Office of Civil Rights, Region IX
90 7th Street, Suite 4-100
San Francisco, CA 94103-6705
Telephone: (415) 437-8324

U. S. Department of Agriculture
Office of Civil Rights, Room 326-W, Whitten Building
1400 Independence Avenue, SW
Washington DC 20250-9410
Telephone: (202) 720-5964

OR

Office of Civil Rights, Food and Nutrition Service Western Region
90 7th Street, Suite 10-100
San Francisco, CA 94103
Telephone: (415) 705-1322 TTY: (800) 735-2922

U. S. Department of Justice
Office of Civil Rights
810 7th Street, NW
Washington, DC 20531
Telephone: (202) 307-0690

U. S. Department of Housing and Urban Development
Office of Civil Rights
451 7th Street, SW
Washington, DC 20410
Telephone: (202) 708-1112 TTY: (202) 708-1455

NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended, states:

“It shall be unlawful employment practice for an employer to discriminate against any of his/her employees or applicant(s) for employment...because he/she has opposed any practice made an unlawful employment practice by this title, or because he/she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.”

Persons filing charges of employment discrimination are advised of this non-retaliation requirement and are instructed to notify the Department’s Civil Rights Compliance Staff at (808) 586-4955 if any attempt at retaliation is made as a result of their filing this complaint.

State of Hawaii
Department of Human Services
COMPLAINT WITHDRAWAL FORM

I, _____ hereby WITHDRAW my Discrimination Complaint
Full Name
signed by me on (Date) _____. I am revoking any consent I might have
granted previously for release of information. I am voluntarily revoking this consent and the
request for an investigation and do not wish to proceed with this complaint. I have received
no promises, rewards or concessions which might have influenced me in withdrawing this
complaint.

Complainant

Date

Note: Please be advised that no one may intimidate, threaten, coerce, or engage in other
discriminatory conduct against anyone because he or she has either taken action or
participated in an action to secure rights protected by civil rights laws. Any individual
alleging such harassment or intimidation may file a complaint with appropriate internal or
external agencies who will investigate such a complaint if the situation warrants.

**Please help us by checking all statements that apply, sign and date and return to
DHS, PERS/CRCS, P.O. Box 339, Honolulu, HI 96809-0339.**

I, the undersigned, wish to withdraw my complaint of discrimination that I filed against
_____ because:

- ___ 1. I no longer wish to pursue my complaint because the issues I raised are now resolved.
- ___ 2. I no longer believe that I have a discrimination complaint.
- ___ 3. I am currently receiving the benefits I am entitled to receive.
- ___ 4. I understand that the changes in current laws prohibit me from receiving benefits.

Signature

Date

Questions may be submitted to: gwatts@dhs.hawaii.gov

NOTICE**THE AMERICANS WITH
DISABILITIES ACT****PROHIBITS DISCRIMINATION**

The Department of Human Services (DHS) does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. DHS does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Titles I and II of the Americans With Disabilities Act (ADA) of 1990, as amended.

Questions, concerns, complaints, or requests for additional information regarding the ADA may be forwarded to the DHS Civil Rights Compliance Staff, the Department's ADA Coordinator.

Name: Geneva Watts
Civil Rights Compliance (CRCS)
Office: DHS Personnel Office
1390 Miller Street, Room 214
Honolulu, Hawaii 96813
E-mail: gwatts@dhs.hawaii.gov
Phone Number: 586-4955 (Voice) 586-4962 (TDD)
Days/Hours Available: Monday—Thursday
(except holidays) 7:45 a.m. to 4:30 p.m.

Individuals who need auxiliary aids and/or an interpreter for effective communication in programs and services of the DHS, are invited to make their needs and preferences known to the Worker, Supervisor, or to DHS' Civil Rights Compliance Office.

This notice is available in large print, or audio tape, and in Braille, from the Civil Rights Compliance Office.

Implementing the ADAAA at the Hawaii Department of Human Services

- ❖ **The Americans with Disabilities Act, as Amended, (ADAAA) was enacted on September 25, 2008.**
- ❖ **The ADAAA became effective January 1, 2009.**
- ❖ **Final EEOC Regulations on implementing the ADAAA became effective March 25, 2011.**
- ❖ **The Department of Human Services is covered by the ADAAA both in employment and services.**

EEOC Final Regulations

- Kept the ADA definition of the term “disability” (3 prongs).
- Implemented significant changes that Congress made regarding how those terms should be **INTERPRETED**.
- Set forth predictable, consistent and workable standards by adopting “rules of construction” to use when determining whether an individual is “substantially limited” in a major life activity.

In Summary, the U. S. Congress

- Made it easier for an individual seeking protection under the ADA to establish that he or she has a disability.
- Overturned several Supreme Court decisions that resulted in a denial of protection for many individuals with impairments, for example, cancer, diabetes and epilepsy.
- Mandates that the definition of disability be construed broadly.

Rules of Construction

- “Substantially limits” requires a lower degree of functional limitation than the previous standard.
- “Substantially limits” is to be construed broadly in favor of expansive coverage.
- Determination requires an individualized assessment.
- Without regard to ameliorative effects of mitigating measures.
- Impairment that is episodic or in remission is a disability.
- Determination of disability should not require extensive analysis.
- Comparison of a person’s performance of a major life activity to the performance of the same activity by most people in the general population usually will not require scientific, medical or statistical analysis.
- An impairment that substantially limits one major life activity need not “substantially limit” other major life activities in order to be considered “substantially limiting.”
- Whether an individual’s impairment “substantially limits” a major life activity is not relevant to coverage under the “regarded as” prong of the definition of disability

ADAAA Regulations

- **Make it easier for individuals to establish coverage under the “regarded as” prong of the definition of “disability.”**
- **Focus for establishing coverage is on HOW A PERSON HAS BEEN TREATED because of an impairment rather than on WHAT an employer may have believed about the nature of the person’s impairment.**
- **Individual must be covered under the first prong (actual disability) or second prong (record of disability) in order to qualify for a reasonable accommodation.**
- **Contains NO list of impairments that would “consistently”, “sometimes”, or “usually not” be disabilities. The rules of construction guide the analysis.**

Keep in Mind....

- A person with a disability must be qualified to do the **ESSENTIAL** job functions with or without reasonable accommodation.
- A person with a disability has to request an accommodation and an **interactive process** is necessary between employee and supervisor.
- **Reasonable** documentation is needed indicating disability and **need for** accommodation, especially when the disability is not obvious.
- Since the definition of disability was broadened, documentation may focus less on whether the person has a disability and more on the need for accommodation.
- ADAAA changes do **NOT** affect workers' compensation laws or Federal and State disability benefit programs.

For More Information...

- See Fact Sheet on the EEOC's Final Regulations Implementing the ADAAA
- Visit EEOC website at www.eeoc.gov for ADAA regulations and question and answer documents
- See Hawai'i Administrative Rules relating to disability discrimination §12-46-187 Failure to make reasonable accommodation, a-d attached, or visit <http://hawaii.gov/labor/hcrc/har9.shtml#12-46-187>
- Call 586-4955 or e-mail gwatts@dhs.hawaii.gov



Hawaii Department of Human Services

Civil Rights Awareness

Administrative Procedures

April 2012

1



Federal Legal Authority

- Civil Rights Act/s (VI +)
- Rehabilitation Act (Section 504)
- Age Discrimination Act
- Equal Pay Act
- Education Amendments (IX)
- Americans with Disabilities Act, as amended
- Genetic Information Act

2



State Legal Authority

- Hawai'i Revised Statutes §371-31-34
- Recipients of state financial assistance, including grants and purchase-of-service contracts, must take reasonable steps to provide meaningful access to their programs, services, and activities for persons with limited English proficiency (LEP).

3



Overview

- Civil Rights Definitions, Goals, and Objectives
- Federal and State Laws on Discrimination, Disabilities and Reasonable Accommodation
DHS P & P 4.10.3 and 4.10.4
- Discriminatory Harassment P&P 4.10.2
- Discrimination Complaint Policy and Procedures
DHS P & P 4.10.1
- Language Access—Limited English Proficiency
DHS P & P 4.10.3 and 4.10.4
Hawaii Revised Statutes 371 & 378
- Bias-free Language
- Reasonable Accommodation Overview Update

4



Part I

Civil Rights Awareness and Tools

5



What does Civil Rights

Compliance

Mean to You ?

General Compliance

USDA FNS
USHHS
HUD
SSA
DOE
DOJ

6



What is "*Discrimination*"?

The word **discrimination** comes from the Latin *discriminare*, which means to "distinguish between". However, **discrimination**, as used in **civil rights**, is more than distinction; it is *action based on prejudice resulting in unfair treatment of other people*. To **discriminate** socially is to make a distinction between people on the basis of a presumed category without regard to individual merit. Examples include race, religion, gender, disability, ethnicity, sexual orientation and age.

Distinctions between people which are based on individual merit (such as personal achievement, wealth, or skill) are generally not considered socially discriminatory.

In America, each individual's **civil rights** include the *right to be free from government sponsored social discrimination*.

7



DHS Civil Rights

Goal: Prevention

Objective:

To create awareness of our roles in providing workplace and service areas that are free from discriminatory practices toward employees, clients and applicants.

8

Protected Areas in Employment

FEDERAL

Race
Color
National Origin
Sex
Religion
Disability
Age
Uniformed Service
Citizenship Status
Genetic Information

Ancestry
Marital Status
Arrest and Court Record
Sexual Orientation
Child Support Obligations
National Guard Absence
Breast Feeding
Domestic or Sexual Violence Status

STATE

9

What's covered? Protected Classes in Hawaii in Employment

- Race/Color
- National origin
- Ancestry
- Sex (pregnancy); Gender identity
- Age
- Disability
- Religion
- Sexual orientation
- Marital status
- Arrest and court record
- Breastfeeding
- National Guard absence
- Child support
- Association with a person with a disability
- Credit history or report
- Domestic or sexual violence victim
- Pay based on sex
- Citizenship status
- Uniformed service
- HIV status/test status


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The Equal Pay Act (EPA)

- Prohibits sex-based wage discrimination
- Includes fringe benefits
- Applies when men and women perform substantially equal work


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The Age Discrimination in Employment Act (ADEA)

- Applies to employers with 20 or more employees.
- Applies to individuals who are age 40 and over.

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Title I of the Americans with Disabilities Act (ADA) (as amended)

- Prohibits discrimination on the basis of disability, including requirements relative to providing a reasonable accommodation in employment and services for disabled individuals
- 2010 amendments redefined terms and clarified intent
- Refer to ADAA and Reasonable Accommodation

<http://hawaii.gov/dhs/main/civil-rights-corner/Reasonable%20Accommodation%20ppt.ppt>

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Definition of a “Disability”

- A physical or mental impairment that substantially limits a major life activity
- A record of such an impairment
- Being regarded as having such an impairment

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Protected Areas in Access to Services

FEDERAL

National Origin
Political Beliefs*
Race
Color
Sex
Religion
Disability
Age

Ancestry
Breast Feeding

STATE

* Applies to SNAP Program (formerly Food Stamp) only

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REASONABLE ACCOMMODATION

A modification or adjustment to a job, the work environment, or the way job tasks are usually accomplished, to enable a person with a disability to perform the essential functions of a job or position.

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Form, Fact Sheet and Practice

- RA-1
(Available at <http://www.hawaii.gov/dhs>
in the Civil Rights Corner)
- How to
- Fact Sheet
- Processing
- Questions

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How to provide Reasonable Accommodations

- Making facilities accessible
- Job restructuring, modifying work schedules, reassignment
- Acquiring or modifying equipment or devices
- Adjusting examinations, training materials, or policies
- Providing qualified readers or interpreters

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Disability

Remember

- A qualified person with a permanent physical or mental impairment that substantially limits a major life activity
- Has a right to an effective reasonable accommodation

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Disability

Illegal to:

- Refuse to hire, fire, penalize
- Limit, segregate, or classify
- Use prejudices of workers/clients
- Requires time away
- Retaliate

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Harassment

DHS P&P 4.10.2 (2011)

Is **UNLAWFUL**
when:

- It is based on a protected factor
- It alters terms and conditions

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Harassment Defined

- Any unwelcome verbal or physical conduct based on:

- Race
- Color
- Sex (Gender)
- Religion
- National origin - ex: LEP
- Age
- Disability - ex: MENTAL HEALTH

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Types of Harassment

1. Tangible Employment Action

- Only supervisors and managers can subject an employee to tangible employment action harassment because only supervisors and managers have the authority needed to take a tangible employment action (hiring, benefits, promotion, training, demotion, discharge).

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2. Sexual Harassment

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- Something promised in exchange for something else

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Identifying and Preventing

Workplace Harassment

- Educate and Monitor
- Listen and Investigate
- Take Timely Corrective Action
- Set the standard; prevent workplace harassment

25



Rights and Responsibilities

(Access Hawaii Rights & Responsibility
Brochure - DHS 050, 2011)

Available in public waiting areas, on employee bulletin boards,
applications and in the Civil Rights Corner.


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Know the difference

- Discrimination is based upon the perception of the client/employee that he/she is discriminated against based on one or more of the protected factors.
- Workplace violence is an act of aggression that the victim perceives as a threat to his/her safety, health and well being.
- Contact Eleanor Suma, PERS/ERS at 586-9543 to discuss your particular situation relative to workplace violence.
- Contact Geneva Watts/PERS/CRCS at 586-4955 to discuss your particular situation relative to discrimination.
- Contact Kevin Shiraishi at 586-4979 to discuss your particular situation relative to misconduct.

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DHS' Discrimination Complaint Policy and Procedures 4.10.1

Forms available at

<http://www.hawaii.gov>

In the Civil Rights Corner

Discussion/Questions

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Complaint Process

- Individuals who believe they have been subjected to discrimination based on national origin or any protected basis may file a complaint on DHS Forms 6000 and 6006
<http://www.hawaii.gov/dhs>
- CRCS will initiate an investigation

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Discrimination Complaint Process

- Right to file complaint concurrently
- Must be informed of complaint process in writing
- Forms, brochures, posters in multiple languages
- Guidelines should be clear
- Procedures, processes and forms readily available

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Discriminatory Retaliation is Prohibited

- It is unlawful to **penalize, punish or deny any employment status** because that person opposed discrimination or participated in any way (ex: as a witness) in the investigation of a charge
- It is unlawful to **penalize, punish or deny (or delay) any services or benefits** because that person opposed discrimination or participated in any way (ex: as a witness) in the investigation of a charge

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Part II

Forms and Techniques

DHS 5000

DHS 5050

DHS 6000

DHS 6006

DHS 6007

RA-1 and Fact Sheet

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Access Requirements

Opportunities for clients and applicants, to participate in programs, services and activities.

Clients and program participants

shall be informed of their right to:

- Non-discriminatory service provision
- Accommodations
- Free interpreter services
- Filing a discrimination complaint

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What to do

- Step 1: Determine the primary language spoken.
 - Check application form
 - Use "I speak" cards <http://www.lep.gov>
 - Telephone Interpreter service 1-866 874 3972
CODE _____
 - Poster (FLAG AND OLA 2012)–LOCAL PHONE #

Once you have established the primary language you will need to make timely arrangements for an interpreter and document your efforts in the case notes/log of contacts.

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How to do it

Step 2: Getting an interpreter.

- Contact a DHS employee (preferably familiar with program).
 - DHS Volunteer
For current listing (586-4955 or gwatts@dhs.hawaii.gov)
 - arrange an appointment with the client and interpreter
- Contact Telephone Interpreter service where available
- Arrange for an interpreter for the formal interview
- There are other resources for interpreters that are available to you:
 - DCAB Listing
 - Court Interpreter Listing

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Working with the Interpreter

- The interpreter shall read, initial and date the Interpreter Code of Ethics
 - Document in log of contacts/contact notes.
 - Copy and place in case record.
- The interpreter shall provide a Confirmation statement to confirm to his/her qualifications
 - Verify signature on Confirmation and place in case notes or log of contacts.
 - Copy and file in case record.

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Interpreter Services Waiver

- When a client declines free interpreter services offered by DHS, document in your log of contacts:
 - Your efforts in providing free interpreter services
 - The client's declining such offer and the date and reason.
- The DHS shall provide a form and alternate interpreter verification/documentation in client's primary language.
 - If the client is unable to read in primary language, oral translation will be necessary.
- As a DHS employee, you shall document your efforts in providing free appropriate and timely interpreter services in your log of contacts or case notes.

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Interpreter Requirements

- Proficient in more than one language
- Avoid using a client's friend, family, minor children.
- Document client waiver of free interpreter service.
- Arrange before bringing client in whenever possible.
- Use DHS volunteers appropriately.
- Examine credentials
- Your particular program may require you to provide an interpreter for your use to verify that the communication is correct, accurate and understood by the client or applicant even when the client provides his/her own interpreter.

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Remember (continued)

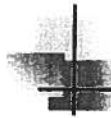
- Document your efforts and the decision of the client to accept or decline the free interpreter service.
- Ensure that LEP applicants, potential applicants and clients are:
 - Given adequate, timely and correct information
 - Understanding of what services and benefits are available
 - Effectively communicating relevant circumstances of their situation
 - Documentation of services provided or client's declination of offered free interpreter service
 - Provided a comprehensive language assistance program, written policies, interpreter and/or translation services and effective communication devices.

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Part III

Bias Free Language

40



Bias- Free Language

How Do We Continue to Remove Our
Stereotypes in Communicating with our
Employees and Clients?

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Bias-Free Language

Eskimo	Inuk (singular) Inuit (Plural)
Hispanic, Latino, Latin American	A prime example of the complexities of terms related to nationality
Indian	American Indian, Native American (or better, name the person's tribe)
Oriental	Asian (or be specific)
Racial Codes: Welfare, inner-city, underprivileged	Do not use a a euphemisms for racial groups

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Bias-Free Language

Councilman	Council Member
chairman	chair person
fireman, policeman	fire fighter, police officer
draftsman	drafting technician
handicapped, invalid	person with a disability (or be specific)
man and wife	husband and wife, partners
manmade	artificial, handmade, synthetic
man hours	staff hours; staff / work time
master, slave	first (primary) copy, second copy
middle man	intermediary
waiter, waitress	server

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Guidelines for Achieving Bias-Free Communication

Be aware of words, images and situations that suggest that all or most members of a group are the same. Stereotypes often lead to assumptions that are unsupportable and offensive.

Example: A writer who describes a *Martian child as well-dressed* may be unconsciously portraying this as an exception to a stereotype that *Martians are unkempt*.

Avoid qualifiers that reinforce stereotypes. A qualifier is added information that suggests what is being said is an exception to what is expected.

Example: "A group of *intelligent Martian* students were guests as part of the orientation program." Would members of the majority population be described in the same way; i.e. the *intelligent Earthling* students?

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More Guidelines for Achieving Bias-Free Communication

Identify people by identity characteristics only when relevant. Very few situations require such identification.

Examples: "Michael Bloomberg, noted *heterosexual* mayor of New York..." "Twenty-two House Democrats, led by *gay* Democratic Representative Barney Frank..."

Be aware of language that, to some people, has questionable racial or ethnic connotations. While a word or phrase may not be personally offensive to you, it may be to others. i.e. disorganized, unorganized, as a general characteristic for a race or group.

Examples: "*Culturally deprived*" or "*culturally disadvantaged*." These terms imply superiority of one culture over another. In fact, people so labeled are often bicultural and bilingual. For example, "*Nonwhite*," implies that white is the standard. In American language, similar phrases such as *non-black* or *non-yellow* do not exist.

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More Guidelines for Achieving Bias-Free Communication

Be aware of the negative implications of *color* symbolic words. Choose words that do not reinforce bias. In some instances, *black* and *yellow* have become associated with the undesirable or negative.

Examples: *black* hearted and *yellow* coward

Avoid patronizing language and tokenism toward any racial or ethnic group.

Example: Once-a-year articles or special editions about a particular group may be interpreted as *cultural tokenism*, especially when such a group constitutes a large part of the community. This approach may suggest that that racial or ethnic group is out of the mainstream.

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More Guidelines for Achieving Bias-Free Communication

Substitute substantive information for ethnic clichés.
Don't let ethnic clichés substitute for in-depth information.

Example: A person of Pacific Island heritage might prefer to be asked about family history or real estate experiences than about surfing or dance.

Review marketing media to see if all groups are fairly represented.

Examples: Are persons portrayed in positions of authority almost invariably white? Does your marketing media provide diverse racial role models?

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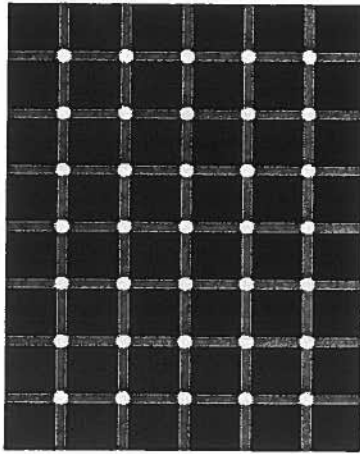
Remember Access to Government Services is a Civil Right

Granted by the U.S. Constitution

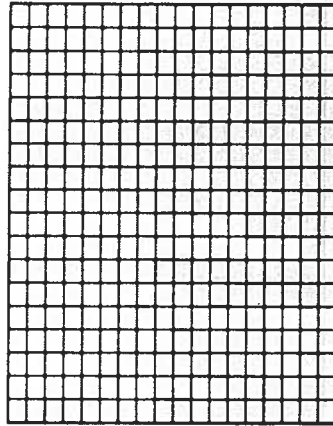
- **Civil rights include the right to free speech, to privacy, to equal protection and due process.**
- **The right not to be discriminated in government services falls under equal protection which means that everyone shall be treated equally no matter the race, sex, religion or national origin and other protected factors.**

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The human mind, naturally
"*discriminates*" and can make you
imagine....



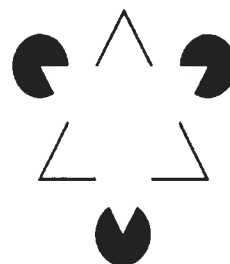
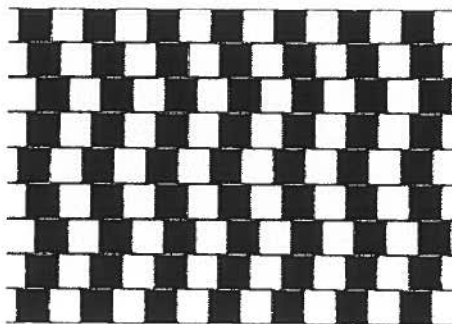
Black Dots



White Dots

49

...or even make a *straight* line,
appear crooked...

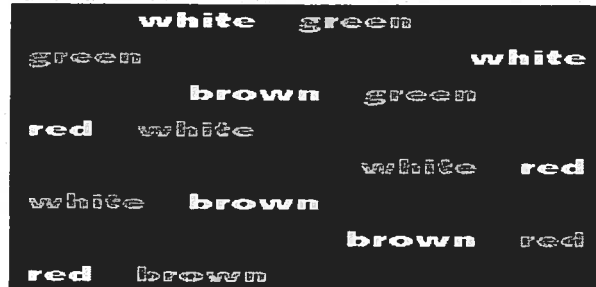


Or a shape that's not even there

50

Let's Reinforce the ***Written Law***, Not the Person's Color !

Start at the top and say the *actual* color, not the *written* word.



The "Stroop Test," invented by John Stroop in 1935, psychologically tests our mental ability to stop one response in order to do something else.

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Remember

- Inform LEP individuals of their right to free interpreter services
- Avoid using a client's/applicant's friend or family member or minor to interpret
- Contact one or more interpreter services (phone, e-mail, on-line, in-person)
- Use DHS Volunteer Interpreters as appropriate and needed
- Provide information on process for filing a Discrimination Complaint and/or a service complaint when service delivery is unacceptable

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Further Information

- gwatts@dhs.hawaii.gov
- Federal Guidelines <http://www.lep.gov>
- Hawaii Revised Statutes
<http://www.labor.gov/ola>
- DHS Policy and Procedures 4.10.4
- <http://www.hawaii.gov/dhs>
(Civil Rights Corner)
 - Write: PERS/CRCS
P. O. 339
Honolulu, HI 96809-0339

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<http://www.hawaii.gov/dhs> Civil Rights Corner

- Forms
- Training
- Plans
- Policies
- Notices
- Resource Lists

54



Who is Responsible?

- Supervisor Responsibilities

Effective

- o Notice

- o Participation

- o Right to Complain

55



Part IV

- Reasonable Accommodation update

Pregnancy and Pregnancy Related

Disability

Religious Practices or Beliefs

Domestic or Sexual Violence Victims

56



Reasonable Accommodation Update

What's Covered?

What's Reasonable?

Who's Responsible?


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Pregnancy

- Pregnant women or women affected by pregnancy must be treated in same manner as other applicants or employees with same abilities or disabilities
- Equal treatment
- An accommodation is an adjustment—different treatment
- May be viewed as special treatment, but law requires accommodation.

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Pregnancy or Related Illegal to:

- Refuse to hire, fire, penalize
- Not allow to express breast milk (similar to smoking breaks)
- Retaliate
- Use prejudices of workers/clients
- Requires time away

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Pregnancy Related Questions and Answers

- **Can DHS fire or require employee to take leave because of performance problems?**
Only if DHS first makes reasonable accommodation and employee is still unable to perform.
- What are some examples of reasonable accommodations?
 - *Time off from work for doctor appointment/s*
 - *Sit instead of stand*
 - *Excuse from /assist in lifting*
 - *Reassign to a vacancy (not usually recommended)*
 - *Breaks/rest periods; clean/safe place to express milk*
 - *Sick leave*

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Disability

Reasonable Accommodation

NOT Examples

- Eliminating an essential function
- Lowering standards
- Reassigning supervision
- Promoting to a higher or demoting to a lower position
- Providing personal use items
- Creating "light duty" or new jobs

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Disability

Examples Reasonable Accommodation

- Restructured job
- Modified or part-time schedule
- Modified policy or procedure
- Purchased/modified equipment
- Readers/interpreters or other auxiliary aids/services
- Leaves of absence
- Reassignment to a vacancy (usually not recommended)


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Religious Practices

- Persons who request an adjustment for their bona fide religious practice or belief is due reasonable accommodation
- Bona fide—It is a sincerely held religious practice or belief irrespective of affiliation with an established church or religion.


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Religious Practices Illegal to:

- Force participation or not
- More/less favorably
 - hire to include/exclude
 - use different requirements
 - allow religious expression
- Retaliate —“business as usual”

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Religious Practices Questions and Answers

- What constitutes an effective accommodation?
An alternative that eliminates the conflict between a religious practice and an employment/service requirement
- What are some examples of effective reasonable accommodations?
 - *Leave for religious observances*
 - *Time and/or a place to pray*
 - *Ability to wear religious attire*
 - *Restructuring work/schedules*
 - *Voluntary substitutes*

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Domestic or Sexual Violence Victim Status

- Persons who provide verification and/or is known to be a victim may request a reasonable accommodation, such as:
 - Changing contact information
 - Screening telephone calls
 - Restructuring job functions
 - Changing work location
 - Installing locks/security devices
 - Flexible hours

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Domestic or Sexual Violence Victim Status Written Verification

- DHS may request written verification every 6 months from:
 - Victim services organization
 - Employee's attorney/advocate
 - Attorney/advocate of employee's minor child
 - Medical/health professional
 - Clergy
 - Police/court record

*If verified by a protective order with an expiration date, request only after expiration of order or extensions, whichever is later.

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Overall Defense

- Undue Hardship—demonstrate that accommodation would be disruptive, fundamentally alter the operation, OR require more than minimal or “administrative” cost:
 - Nature and cost
 - Financial resources
 - Operations
 - Number needing accommodation
 - Existence of bona fide seniority

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Overall Keys

- Requested
- Case-by-case
- Different
- Not usual and customary
- Not unfair; it is the law
- Interactive process
- Consideration of alternatives
- Effective

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Remember

- These requirements are to provide a balance between DHS' need to operate and society's need to have equality of opportunity, full participation, and contributing members
- It's the law.
- It's your responsibility.

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For More Information.....

- Pregnancy Federal <http://www.eeoc.gov/facts/fs-preg.html>
State <http://hawaii.gov/labor/hcrc/pdf/INFOpreg.pdf>
& <http://hawaii.gov/labor/hcrc/har4.shtml#12-46-106>
- Disabilities Federal http://www1.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm?renderforprng=1
State <http://hawaii.gov/labor/hcrc/har9.shtml#12-46-187>
<http://hawaii.gov/health/dcab/sohramanual/> online or
<http://hawaii.gov/health/dcab/docs/sohramanual.pdf> print
- Religion Federal <http://www.eeoc.gov/facts/fs-religion.html>
State <http://hawaii.gov/labor/hcrc/har7.shtml#12-46-154>
- Domestic or Sexual Violence Victim Federal—NONE Not a Federal coverage
State
<http://hawaii.gov/labor/hcrc/pdf/HCRC%20Act%20206%2010-18-11%20public%20hearing%20agenda.pdf> and
http://www.capitol.hawaii.gov/session2011/bills/SB229_CD1_.pdf
- gwatts@dhs.hawaii.gov 586-4955 <http://www.hawaii.gov/dhs>

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What will you do differently?

- What specific actions will you take as a result of increased awareness?
 - How will you change the way you work with clients? Employees?
 - Create a list of what you will do differently and put it into action.

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APPENDIX G

**2012 Unannounced Site Visits
March 30--June 28, 2012**

Date/s	Location/s	Division/Office
3/30-6/28/12	Oahu, Kauai, Maui, Lanai, Kona, Hilo, Molokai	BESSD/SSD/MQD DIR/PERS/HYCF/HYPA VRSBD

Oahu

30-Mar-12	601 Kamokila Blvd. Kapolei, HI 96707	SSD/CWS, 135 BESSD FW, 138 BESSD, 111 BESSD, CF262 BESSD, 462-468 MQD,415
2-Apr-12	1390 Miller Street	DIR, 209
3-Apr-12	Honolulu, HI 96809	PERS. 214
16-May	42-470 Kalaniana'ole Highway Kailua, HI 96734	HYCF

Kauai

16-Apr-12	4473 Pahee Street Lihue, Kauai	MQD, Ste. A BESSD/FW, Ste G
	3060 Eiwa Street	SSD/CWS 102-04 BESSD, 103 VRSBD, 304
	4370 Kukui Grove St.	SSD/ACCS, 203 BESSD INVO, 103
17-Apr-12	4-1579 Kuhio Hwy Kapaa 4469 Waiola Road Elee Elee, Kauai	SSD, 106 BESSD

Maui

21-May-12	270 Waielu Beach Rd Wailuku, Maui	BESSD, 107
22-May-12	1885 Main Street	SSD,303-06
	1733 B Wili Pa Loop	SSD
	35 Lunalilo Road	BESSD
	54 High Street	BESSD, 125
		VRSBD, 309
23-May-12	1028 Wainee St. Lahaina, Maui	HPHA
24-May-12	201 Ewi Kala Street Wailuku, Maui	MQD, 101

Lanai

23-May-12	730 Lanai Ave Lanai, Hawaii	BESSD,SSD,MQD
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Kona

4-Jun-12	82-6130 Mamalahoa Captain Cook, Kona	BESSD, Bldg 2 VRSBD, Bldg 2
5-Jun-12	75-5777 Hanama Place	BESSD
	75-5995 Kuakina Hwy	SSD/APS
	73-4257 Hulikoa Drive	SSD
	75-5591 Palania Road	MQD

Hilo

6-Jun-12	88 Kamoelehia Ave Hilo, HI 96720	MQD, 107
7-Jun-12	1055 Kino'ole Street	SSD/APS, 201
	75 Aupuni Street	VRSBD, 110
		SSD, 112 SSD, 205
	1990 Kino'ole Street	BESSD

Molokai

28-Jun-12	55 Makaena Street Molokai 96748	MQD, Bldg.1 SSD, Bldg.2 VRSBD, Bldg 2 BESSD, Bldg 2
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Program/facilities Options:

- Outreach Services
- Escort (monitor)
- Replace hardware (rails, bars, door hardware)
- Assistive devices (i.e. walkers)
- Buzzers, automatic door openers, etc.
- Provide turnaround space (60" MINIMUM)
- Replace water closets, hand towel racks, soap, mirrors etc.
- Braille on signage (restrooms)
- Find new site (relocate)
- Directional signage
- Parking signage
- Parking lines (re-stripe) (van accessible)
- Loading footage enhancement
- Reduce slope (ramps and curbs)
- Evacuation plan posted near door/s
- Lower counter space or provide writing table/s
- Renegotiate lease
- Notify applicants and potential applicants of inaccessible features
- Interview off site
- EBT cards
- Telephone interviews
- Home visits
- Repair lifts
- Clear aisles
- Test alarm systems
- Reach device in elevators as needed
- Remove wall/s